

Chapter 458-28 WAC

TAXATION OF FINANCIAL BUSINESSES BY CITIES
OR TOWNS

WAC

458-28-010	Scope of rule.
458-28-020	Gross income defined.
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WAC 458-28-010 Scope of rule. Chapter 134, Laws of 1972 ex. sess., authorizes cities and towns to impose a license fee or tax on financial institutions. Financial institutions having business locations in cities and towns which levy a tax upon gross income or gross receipts for the privilege of engaging in business shall divide their gross income for purposes of computing income earned in the cities, towns or unincorporated areas in which such places of business are located in accordance with these rules.

[Order ET 72-1, § 458-28-010, filed 9/29/72.]

WAC 458-28-020 Gross income defined. "Gross income of the business" means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

Other examples of gross income are receipts from carrying charges, service charges, credit cards, safety deposit box rentals, bookkeeping or data processing, overdraft fees, flooring fees, and penalty fees.

[Order ET 72-1, § 458-28-020, filed 9/29/72.]

WAC 458-28-030 Deductions. In arriving at income taxable to a city or town from activities of a place of business located therein, financial institutions may deduct from gross income:

- (1) Dividends received by a parent from a subsidiary corporation.
- (2) Interest received on investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties.
- (3) Interest received on obligations of the state of Washington, its political subdivisions, and municipal corporations. A deduction may also be taken for interest received on direct obligations of the federal government, but not for interest attributable to loans or other financial obligations on which the federal government is merely a guarantor or insurer.
- (4) Gross proceeds from the sale or rental of real estate.

[Order ET 72-1, § 458-28-030, filed 9/29/72.]

WAC 458-28-040 Branch locations, division of income. Financial institutions having more than one place of business shall divide total taxable gross income so as to attribute taxable income to each location in the ratio of total

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interest earned (whether taxable or not) on loans originated at each location during the period covered by the tax return. The location at which a loan is originated is the place of business of the financial institution at which the customer deals with the financial institution to obtain the loan. Financial institutions having time or demand deposits may compute the ratio of total deposits at each location as a basis for approximating gross income of each location, provided the financial institution can demonstrate that the taxable income so computed will not differ by more than \$10,000 in any one calendar year as to any one business location from the amount computed using the ratio of interest earned on loans originated at each location.

[Order ET 72-1, § 458-28-040, filed 9/29/72.]

Chapter 458-29A WAC
LEASEHOLD EXCISE TAX

WAC

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WAC 458-29A-100 Leasehold excise tax—Overview and definitions. (1) **Introduction.** Chapter 82.29A RCW establishes an excise tax on the act or privilege of occupying or using publicly owned real or personal property through a leasehold interest. The intent of the law is to ensure that lessees of property owned by public entities bear their fair share of the cost of governmental services when the property is rented to someone who would be subject to property taxes if the lessee were the owner of the property. The tax is an excise tax triggered by the private use and possession of the public property. RCW 82.29A.030.

(2) **Definitions.** For the purposes of chapter 458-29A WAC, the following definitions apply unless the context requires otherwise.

- (a) "Department" means the department of revenue.
- (b) "Concession" means the right to operate a business in an area of public property.
- (c) "Contract rent" means that portion of the payment made by a lessee (including a sublessee) to a public lessor (or to a third party for the benefit of that lessor) for a leasehold interest in land and improvements or tangible personal property.
- (d) "Franchise" means a right granted by a public entity to a person to do certain things that the person could not otherwise do. A franchise is distinguishable from a leasehold interest even when its exercise and value is inherently dependent upon the use and possession of publicly owned property.
- (e) "Improvement" means a modification to real property, resulting in an actual change in the nature of the property or an increase in the value of the property. It is distinguishable from routine repair and maintenance, which are activities resulting from normal wear and tear associated with the use of property, and which do not result in a change in the nature or value of the property itself. For example, replacing worn boards in a stairway is repair and maintenance; removing the stairway and replacing it with an elevator or a ramp is an improvement.

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(f) "Leasehold interest" means an interest granting the right to possession and use of publicly owned real or personal property as a result of any form of agreement, written or oral, without regard to whether the agreement is labeled a lease, license, or permit.

(i) Regardless of what term is used to label an agreement providing for the use and possession of public property by a private party, it is necessary to look to the actual substantive arrangement between the parties in order to determine whether a leasehold interest has been created.

(ii) Both possession and use are required to create a leasehold interest, and the lessee must have some identifiable dominion and control over a defined area to satisfy the possession element. The defined area does not have to be specified in the agreement but can be determined by the practice of the parties. This requirement distinguishes a taxable leasehold interest from a mere franchise, license, or permit.

For example, Sam sells hot dogs from his own trailer at varying sites within a county fairgrounds during events. Sam is not assigned a particular place to set up his trailer nor does he store his trailer on the fairground between events. Sam's right to sell and his use of the property is considered a franchise and not a leasehold interest. The necessary element of possession, involving a greater degree of dominion and control over a more defined area, is lacking.

(iii) The use or occupancy of public property where the purpose of such use or occupancy is to render services to the public owner does not create a leasehold interest. The lessee's possession and use of the property is in furtherance of the public owner's purposes, and it is the public owner who benefits from the governmental services rendered in respect to the property.

For example, Contractor A operates a snack bar at a publicly owned facility where food and beverages are sold to members of the public, and derives a profit from the proceeds of the snack bar sales. Contractor B operates a cafeteria where food is provided at no charge to persons with appropriate I.D., and is reimbursed on a cost-plus basis. Contractor A is engaged in a business enterprise the same as any other restaurateur. Contractor A is using the public property for a private purpose, and has a taxable leasehold interest on the premises. Contractor B is merely providing a service to government personnel that the government agency would otherwise provide. Contractor B is using public property for a public purpose, and does not have a taxable leasehold interest.

(iv) "Leasehold interest" includes the use and occupancy by a private party of property that is owned in fee simple, held in trust, or controlled by a public corporation, commission, or authority created under RCW 35.21.730 or 35.21.660 if:

(A) The property is within a special review district established by ordinance after January 1, 1976; or

(B) The property is listed on, or is within a district listed on, any federal or state register of historical sites in existence after January 1, 1987.

(v) "Leasehold interest" does not include:

(A) Road or utility easements;

(B) Rights of access, occupancy, or use granted solely for the purpose of removing materials or products purchased from a public owner or the lessee of a public owner, including

permits to graze livestock, cut brush, pick wild mushrooms, or mine ore; and

(C) Any right to use personal property (excluding land or buildings) owned by the United States (as a trustee or otherwise), or by a foreign government, when the right to use the property is granted by a contract solely to manufacture or produce articles for sale to the United States or the foreign government.

(g) "Lessee" means a private person or entity with a leasehold interest in public property who would be subject to property tax if the person or entity owned the property in fee.

(h) "Lessor" or "public lessor" means an entity exempted from property tax obligations pursuant to Article 7, section 1 of the state Constitution that grants a leasehold interest in public property to a private person or entity.

(i) "License" means permission to enter on land for some purpose, without conferring any rights to the land upon the person granted the permission. For example, a permit to enter federal lands to launch rafts into the water for the purpose of conducting whitewater river rafting tours is a license, not a leasehold interest.

(j) "Management agreement" means a written agency agreement between a public property owner and a private person or entity for the use and possession of public property under the following circumstances:

(i) The public property owner retains all liability for payment of business operating costs and business related damages (other than costs and damages attributable to the activities of the private party);

(ii) The public property owner has title and ownership of all receipts from sales of services or products relating to the management agreement (whether such amounts are collected by the private party on behalf of the public owner or whether the public owner permits the private party to retain a portion of the receipts as payment for services rendered by the private party), and the full discretion of whether to eliminate, reduce or expand the business activity conducted on the property; and

(iii) The public property owner has full control of the prices to be charged for the goods or services provided in the course of use of the property.

If each of these criteria is met, the arrangement between the parties is considered a "true" management agreement which does not, by itself, create a taxable leasehold interest in the property.

(k) "Permit" means a written document creating a license to enter land for a specific purpose.

(l) "Product lease" means a lease of public property which will be used to produce agricultural or marine products (aquaculture) wherein the lease or agreement requires that:

(i) The leasehold payment be made by delivering a stated percentage of the agricultural or marine products to the credit of the lessor; or

(ii) The lessor be paid a stated percentage of the proceeds from the sale of the agricultural or marine products.

(m) "Public property" means all property owned by an entity exempted from property tax obligations pursuant to Article 7, section 1 of the state Constitution (and, in some instances, property held in trust by the United States).

(n) "Renegotiated" means a change in the leasehold agreement, other than one specifically required by the terms of the agreement itself, which alters:

(i) The agreed time of possession and use of the property;

(ii) The restrictions on the manner in which the property may be used; or

(iii) The rate of cash rental or other consideration paid by the lessee to or for the benefit of the lessor.

The term also includes the continued possession of the property by the lessee beyond the original date when, according to the terms of the agreement, the lessee had the right to vacate the premises without incurring further liability to the lessor.

(o) "Taxable rent" means the amount of rent upon which the measure of leasehold excise tax is based. It is either the contract rent or an amount established by the department in accordance with the procedures set forth in RCW 82.29A.020 (2). (See also WAC 458-29A-200.)

(p) "Utility easement" means the right to use publicly owned land for the purpose of providing access or installation of publicly regulated utilities.

[Statutory Authority: RCW 82.29A.140, 99-20-053, § 458-29A-100, filed 10/1/99, effective 11/1/99.]

WAC 458-29A-200 Leasehold excise tax—Taxable rent and contract rent. (1) **Introduction.** Ordinarily, the amount of taxable rent is the amount of contract rent paid by a lessee for a taxable leasehold interest. The law does authorize the department to establish a taxable rent different from the contract rent in certain cases. This rule explains the exclusions of certain moneys and other property received by or on behalf of a lessor from the measure of contract rent. It also explains the conditions under which the department is authorized to establish a taxable rent different from the contract rent.

(2) **Contract rent exclusions.** Even when a leasehold interest is present, not all payments made to a lessor constitute taxable contract rent. For example, payments made to or on behalf of the lessor for actual utility charges, janitorial services, security services, repairs and maintenance, and for special assessments such as storm water impact fees attributable to the lessee's space or prorated among multiple lessees, are not included in the measure of contract rent, if the actual charges are separately stated and billed to the lessee(s). "Utility charges" means charges for services provided by a public service business subject to the public utility tax under chapter 82.16 RCW, and, for the purpose of this section only, also includes water, sewer, and garbage services and cable television services.

In some circumstances a private lessee that is occupying or using public property may collect fees from third parties and remit them to the public lessor. In those situations where:

(a) The fee structure, rate, or amount collected by the private party is established by or subject to the review and approval of the public lessor or other public entity; and

(b) The amounts received by the private entity from third parties are remitted entirely to the public lessor or credited to the account of the public lessor, those amounts are not considered part of the contract rent under this chapter, provided that nothing in this section shall preclude or prevent the

imposition of tax, as appropriate, under any other chapter of Title 82 RCW on any amounts retained by or paid to the private entity as consideration for services provided to the public property owner.

Notwithstanding the provisions of this subsection, if such deductions are determined by the department to reduce the amount of contract rent to a level below market value, the department may establish a taxable rent in accordance with section (6) below.

For example, Dan leases retail space in a building owned by the Port of Whistler. He pays \$800 per month for the space, which includes building security services. Additionally, he is assessed monthly for his pro rata share of actual janitorial and utility services provided by the Port. The Port determines Dan's share of these charges in the following manner: The average annual amount actually paid by the Port for utilities in the prior year is divided by 12. Dan's space within the building is approximately ten percent of the total space in the building, so the averaged monthly charge is multiplied by .10 (Dan's pro rata share based upon the amount of space he leases), and that amount is added to Dan's monthly statement as a line item charge for utilities, separate from the lease payment. The charges for janitorial services are treated in the same manner. In this case, Dan's payment for utilities and janitorial services are not included in the measure of contract rent. His payments for security services are included in the measure of contract rent, and subject to the leasehold excise tax, because they are not calculated and charged separately from the lease payments.

Contract rent also does not include:

(a) Expenditures made by the lessee for which the lease agreement requires the lessor to reimburse the lessee;

(b) Expenditures made by the lessee for improvements and protection if the lease or agreement requires the improved property to be open to the general public (e.g., a public boat launch) and prohibits the lessee from enjoying any profit directly from the lease;

(c) Expenditures made by the lessee to replace or repair the facilities due to fire or other catastrophic event including, but not necessarily limited to, payments:

(i) For insurance to reimburse losses;

(ii) To a public or private entity to protect the property from damage or loss; or

(iii) To a public or private entity for alterations or additions made necessary by an action of government which occurred after the date the lease agreement was executed.

(d) Improvements added to public property if the improvements are taxed as any person's personal property.

(3) **Combined payments.** When the payment for a leasehold interest is made in combination with payment for concession, franchise or other rights granted by the public lessor, only that part of the payment which represents consideration for the leasehold interest is considered part of the contract rent. For example, if the payment made by the lessee to the public lessor exceeds the fair market rental value for comparable property with similar use, the excess is generally attributable to payment for a concession or other right.

(4) **Lease payments based on a percentage of sales.** The measure of contract rent subject to the leasehold excise tax may be based upon a lease which provides that the rent shall be a percentage of business proceeds. The manner in

which the rent is calculated does not, in itself, determine the character of the underlying right or interest for which the payment is made.

(5) **Expenditures for improvements.** Expenditures by the lessee for nonexcludable improvements (see WAC 458-29A-200(2)) with a useful life of more than one year will be treated as prepaid contract rent if the expenditures were intended by the parties to be included as part of the contract rent. Such intention may be demonstrated by a contract provision granting ownership or possession and use to the public owner of the underlying property and/or by the conduct of the parties. These expenditures should be prorated over the useful life of the improvement, or over the remaining term of the lease or agreement if the useful life of the improvement exceeds that term. If the lessee vacates prior to the end of the lease without the agreement of the lessor, thereby defaulting on the lease, no additional LET is due for the term remaining pursuant to the contract between the lessor and that lessee.

(6) **Department's authority to establish taxable rent.** RCW 82.29A.020(2) authorizes the department to establish a "taxable rent" that is different from contract rent in some situations.

(a) If the department determines that a lessee has a leasehold interest in publicly owned property and that such leasehold interest has not been established through competitive bidding, or negotiated in accordance with statutory requirements regarding the rent payable, or negotiated under circumstances, established by public record, clearly showing that the contract rent was the maximum attainable by the lessor, the department may establish a taxable rent computation for use in determining the tax payable under authority granted under chapter 82.29A RCW. The department shall base its computation on the following criteria:

(i) Consideration shall be given to rent being paid to other lessors by lessees of similar property for similar purposes over similar periods of time; or

(ii) Consideration shall be given to what would be considered a fair rate of return on the market value of the property leased less reasonable deductions for any restrictions on use, special operating requirements or provisions for concurrent use by the lessor, another person or the general public.

(b) If the department establishes taxable rent pursuant to RCW 82.29A.020(2), and the contract rent was established in accordance with the procedures set forth in that section, but the lease is ten or more years old and has not been renegotiated, the taxable rent for leasehold excise tax purposes shall be prospective only. However, if upon examination the department determines that the contract rent was not set in accordance with the statutory provisions of RCW 82.29A.020(2) and the rent is below fair market rate, the department may (and in most instances, will) apply the taxable rental rate retroactively for purposes of determining the leasehold excise tax, subject to the provisions of RCW 82.32.050(3).

(c) The department will not establish taxable rent if one of the following four situations apply:

(i) The leasehold interest has been established or renegotiated through competitive bidding;

(ii) The rent was set or renegotiated according to statutory requirements;

(iii) Public records demonstrate that the rent was the maximum attainable; or

(iv) A lease properly established or renegotiated in compliance with (6)(c)(i), (ii), or (iii) has been in effect for ten years or less without renegotiation.

(d) Where the contract rent has been established in accordance with one of the first three criteria set forth above, and the lease agreement has not been in effect for ten years or more, or has been properly renegotiated within the past ten years, the taxable rent is deemed to be the stated contract rent.

(e) If land on the Hanford reservation is subleased to a private or public entity by the state of Washington, "taxable rent" means only the annual cash rental payment made by the sublessee to the state and specifically referred to as rent in the sublease agreement.

[Statutory Authority: RCW 82.29A.140, 99-20-053, § 458-29A-200, filed 10/1/99, effective 11/1/99.]

WAC 458-29A-400 Leasehold excise tax—Exemptions. (1) **Introduction.** This rule explains the exemptions from leasehold excise tax provided by RCW 82.29A.130, 82.29A.132, 82.29A.134, and 82.29A.136. To be exempt from the leasehold excise tax, the property subject to the leasehold interest must be used exclusively for the purposes for which the exemption is granted.

(2) **Operating properties of a public utility.** All leasehold interests that are part of the operating properties of a public utility are exempt from leasehold excise tax if the leasehold interest is assessed and taxed as part of the operating property of a public utility under chapter 84.12 RCW.

For example, tracks leased to a railroad company at the Port of Seaside are exempt from leasehold excise tax because the railroad is a public utility assessed and taxed under chapter 84.12 RCW and the tracks are part of the railroad's operating properties.

(3) **Student housing at public and nonprofit schools and colleges.** All leasehold interests in facilities owned or used by a school, college, or university which leasehold provides housing to students are exempt from leasehold excise tax if the student housing is exempt from property tax under RCW 84.36.010 and 84.36.050.

For example, the leasehold interest associated with a building used as a dormitory for Public University students is exempt from the leasehold excise tax.

(4) **Subsidized housing.** All leasehold interests of subsidized housing are exempt from leasehold excise tax if the property is owned in fee simple by the United States, the state of Washington or any of its political subdivisions, and residents of the housing are subject to specific income qualification requirements.

For example, a leasehold interest in an apartment house that is subsidized by the United States Department of Housing and Urban Development is exempt from leasehold excise tax if the property is owned by the state of Washington and residents are subject to income qualification requirements.

(5) **Nonprofit fair associations.** All leasehold interests used for fair purposes of a nonprofit fair association are exempt from leasehold excise tax if the fair association sponsors or conducts a fair or fairs supported by revenues collected under RCW 67.16.100 and allocated by the director of the department of agriculture. The property must be owned in fee simple by the United States, the state of Washington or any of its political subdivisions. However, if a nonprofit asso-

ciation subleases exempt property to a third party, the sublease is a taxable leasehold interest.

For example, a leasehold interest held by the Local Non-profit Fair Association is considered exempt from leasehold excise tax. However, if buildings on the fairgrounds are rented to private parties for storage during the winter, these rentals may be subject to the leasehold excise tax.

(6) **Public employee housing.** All leasehold interests in public property used as a residence by an employee of the public owner are exempt from leasehold excise tax if the employee is required to live on the public property as a condition of his or her employment. The "condition of employment" requirement is met only when the employee is required to accept the lodging in order to enable the employee to properly perform the duties of his or her employment. However, the "condition of employment" requirement can be met even if the employer does not compel an employee to reside in a publicly owned residence.

The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) A park ranger employed by the National Park Service, an agency of the United States government, resides in a house furnished by the agency at a national park. The ranger is required to be on call twenty-four hours a day to respond to requests for assistance from park visitors staying at an adjacent overnight campground. The use of the house is exempt from leasehold excise tax because the lodging enables the ranger to properly perform her duties.

(b) An employee of the Washington department of fish and wildlife resides in a house furnished by the agency at a fish hatchery although, under the terms of a collective bargaining agreement, the agency may not compel the employee to live in the residence as a condition of employment. In exchange for receiving use of the housing provided by the agency, the employee is required to perform additional duties, including regularly monitoring certain equipment at the hatchery during nights and on weekends and escorting public visitors on tours of the hatchery on weekends. The use of the house is exempt from leasehold excise tax because the lodging enables the employee to properly perform the duties of his employment. The use is exempt even though the employee would continue to be employed by the agency if the additional duties were not performed and even though state employees of an equal job classification are not required to perform the additional duties.

(c) A professor employed by State University is given the choice of residing in university-owned campus housing free of charge or of residing elsewhere and receiving a cash allowance in addition to her regular salary. If she elects to reside in the campus housing free of charge, the value of the lodging furnished to the professor would be subject to leasehold excise tax because her residence on campus is not required for her to perform properly the duties of her employment.

(7) **Interests held by enrolled Indians.** Leasehold interests held by enrolled Indians are exempt from leasehold excise tax if the lands are owned or held by any Indian or Indian tribe, and the fee ownership of the land is vested in or held in trust by the United States, unless the leasehold inter-

ests are subleased to a lessee which would not qualify under chapter 82.29A RCW, RCW 84.36.451 and 84.40.175 and the tax on the lessee is not preempted due to the balancing test (see WAC 458-20-192).

Any leasehold interest held by an enrolled Indian or a tribe, where the leasehold is located within the boundaries of an Indian reservation, on trust land, on Indian country, or is associated with the treaty fishery or some other treaty right, is not subject to leasehold excise tax. For example, if an enrolled member of the Puyallup Tribe leases port land at which the member keeps his or her boat, and the boat is used in a treaty fishery, the leasehold interest is exempt from the leasehold tax. For more information on excise tax issues related to enrolled Indians, see WAC 458-20-192 (Indians—Indian country).

(8) **Leases on Indian lands to non-Indians.** Leasehold interests held by non-Indians (not otherwise exempt from tax due to the application of the balancing test described in WAC 458-20-192) in any real property of any Indian or Indian tribe, band, or community that is held in trust by the United States or subject to a restriction against alienation imposed by the United States are exempt from leasehold excise tax if the amount of contract rent paid is greater than or equal to ninety percent of fair market rental value. In determining whether the contract rent of such lands meets the required level of ninety percent of market value, the department will use the same criteria used to establish taxable rent under RCW 82.29A.020 (2)(b) and WAC 458-29A-200.

For example, Harry leases land held in trust by the United States for the Yakama Nation for the sum of \$900 per month. The fair market value for similar lands used for similar purposes is \$975 per month. The lease is exempt from the leasehold excise tax because Harry pays at least ninety percent of the fair market value for the qualified lands. For more information on the preemption analysis and other tax issues related to Indians, see WAC 458-20-192.

(9) **Annual taxable rent is less than two hundred fifty dollars.** Leasehold interests for which the taxable rent is less than \$250 per year are exempt from leasehold excise tax. For the purposes of this exemption, if the same lessee has a leasehold interest in two or more contiguous parcels of property owned by the same public lessor, the taxable rent for each contiguous parcel will be combined and the combined taxable rent will determine whether the threshold established by this exemption has been met. To be considered contiguous, the parcels must be in closer proximity than merely within the boundaries of one piece of property. When determining the annual leasehold rent, the department will rely upon the actual substantive agreement between the parties. Rent payable pursuant to successive leases between the same parties for the same property within a twelve-month period will be combined to determine annual rent; however, a single lease for a period of less than one year will not be projected on an annual basis.

The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) The yacht club rents property from the Port of Bay City for its clubhouse and moorage. It also rents a parking stall for its commodore. The parking stall is separated from

the clubhouse only by a common walkway. The parking stall lease is a part of the clubhouse lease because it is contiguous to the clubhouse, separated only by a necessary walkway.

(b) Ace Flying Club rents hangars, tie downs, and ramps from the Port of Desert City. It has separate leases for several parcels. The hangars are separated from the tie down space by a row of other hangars, each of which is leased to a different party. Common ramps and roadways also separate the club's hangars from its tie-downs. The hangars, because they are adjacent to one another, create a single leasehold interest. The tie downs are a separate taxable leasehold interest because they are not contiguous with the hangars used by Ace Flying Club.

(c) Grace leases a lot from the City of Flora, from which she sells crafts at different times throughout the year. She pays \$50 per month for the lot, and has a separate lease for each season during which she sells. She has one lease from May through September, and a separate lease for the time between Thanksgiving and Christmas, which might run thirty to forty days, depending on the year. The leases will be combined for the purposes of determining the leasehold excise tax. They relate to the same piece of property, for the same activity by the same lessee, and occur within the same year.

(d) Elizabeth owns a Christmas tree farm. Every year she rents a small lot from the Port of Capital City, adjacent to its airport, to sell Christmas trees. She pays \$125 to the port to rent the lot for 6 weeks. It is the only time during the year that she rents the lot. Her lease is exempt from the leasehold excise tax, because it does not exceed \$250 per year in taxable rent.

(10) Leases for a continuous period of less than thirty days. Leasehold interests that provide use and possession of public property for a continuous period of less than thirty days are exempt from leasehold excise tax. In determining the duration of the lease, the department will rely upon the actual agreement and/or practice between the parties. If a single lessee is given successive leases or lease renewals of the same property, the arrangement is considered a continuous use and possession of the property by the same lessee. A leasehold interest does not give use and possession for a period of less than thirty days based solely on the fact that the public lessor has reserved the right to use the property or to allow third parties to use the property on an occasional, temporary basis.

(11) Month-to-month leases in residential units to be demolished or removed. Leasehold interests in properties rented for residential purposes on a month-to-month basis pending destruction or removal for construction of a public highway or public building are exempt from the leasehold excise tax. Thus, if the state or other public entity has acquired private property for purposes of building or expanding a highway, or for the construction of public buildings at an airport, the capitol campus, or some other public facility, and the public entity rents the property for residential purposes on a month-to-month basis pending destruction or removal for construction, these leases do not create taxable leasehold interests. This exemption does not require evidence of imminent removal of the residential units; the term "pending" merely means "while awaiting." The exemption is based upon the purpose for which the public entity holds the units.

For example, State University has obtained capital development funding for the construction of new campus buildings, and has purchased a block of residential property adjacent to campus for the sole purpose of expansion. Jim leases these houses from State University pursuant to a month-to-month rental agreement and rents them to students. Construction of the new buildings is not scheduled to begin for two years. Jim is not subject to the leasehold excise tax, because State University is holding the residential properties for the sole purpose of expanding its facilities, and Jim is leasing them pending their certain, if not imminent, destruction.

(12) Public works contracts. Leasehold interests in publicly owned real or personal property held by a contractor solely for the purpose of a public improvements contract or work to be executed under the public works statutes of Washington state or the United States are exempt from leasehold excise tax. To receive this exemption, the contracting parties must be the public owner of the property and the contractor that performs the work under the public works statutes.

For example, during construction of a second deck on the Nisqually Bridge pursuant to a public works contract between the state of Washington and Tinker Construction, any leasehold interest in real or personal property created for Tinker solely for the purpose of performing the work necessary under the terms of the contract is exempt from leasehold excise tax.

(13) Correctional industries in state adult correctional facilities. Leasehold interests for the use and possession of state adult correctional facilities for the operation of correctional industries under RCW 72.09.100 are exempt from leasehold excise tax.

For example, a profit or nonprofit organization operating and managing a business within a state prison under an agreement between it and the department of corrections is exempt from leasehold excise tax for its use and possession of state property.

(14) Camp facilities for disabled persons. Leasehold interests in a camp facility are exempt from leasehold excise tax if the property is used to provide organized and supervised recreational activities for disabled persons of all ages, and for public recreational purposes, by a nonprofit organization, association, or corporation which would be exempt from property tax under RCW 84.36.030(1) if it owned the property.

For example, a county park with camping facilities leased to a nonprofit charitable organization is exempt from leasehold excise tax if the nonprofit allows the property to be used by the general public for recreational activities throughout the year, and to be used as a camp for disabled persons for two weeks during the summer.

(15) Public or entertainment areas of certain baseball stadiums. Leasehold interests in public or entertainment areas of a baseball stadium with natural turf and a retractable roof or canopy, located in a county with a population of over one million people, with a seating capacity of over forty thousand, and constructed on or after January 1, 1995, are exempt from leasehold excise tax.

"Public or entertainment areas" for the purposes of this exemption include ticket sales areas, ramps and stairs, lobbies and concourses, parking areas, concession areas, restau-

rants, hospitality and stadium club areas, kitchens or other work areas primarily servicing other public areas, public rest rooms, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas and suites, the playing field, and any other areas to which the public has access or that are used for the production of the entertainment event or other public usage, and any other personal property used for such purposes. "Public or entertainment areas" does not include locker rooms or private offices used exclusively by the lessee.

(16) **Public or entertainment areas of certain football stadiums and exhibition centers.** Leasehold interests in the public or entertainment areas of an open-air stadium suitable for national football league football and for Olympic and world cup soccer, with adjacent exhibition facilities, parking facilities, and other ancillary facilities constructed on or after January 1, 1998, are exempt from leasehold excise tax. For the purpose of this exemption, the term "public and entertainment areas" has the same meaning as set forth in subsection (15) above.

(17) **Public facilities districts.** All leasehold interests in public facilities districts, as provided in chapter 36.100 or 35.57 RCW are exempt from leasehold excise tax.

(18) **State route 16 corridor transportation systems.** All leasehold interests in the state route number 16 corridor transportation systems and facilities constructed and operated under chapter 47.46 RCW are exempt from leasehold excise tax. RCW 82.29A.132.

(19) **Sales/leasebacks by regional transit authorities.** All leasehold interests in property of a regional transit authority or public corporation created under RCW 81.112.320 under an agreement under RCW 81.112.300 are exempt from leasehold excise tax. This exemption is effective July 28, 2000. RCW 82.29A.134.

(20) **Interests consisting of three thousand or more residential and recreational lots.** All leasehold interests consisting of three thousand or more residential and recreational lots that are or may be subleased for residential and recreational purposes are exempt from leasehold excise tax. Any combination of residential and recreational lots totaling at least three thousand satisfies the requirement of this exemption. This exemption is effective January 1, 2002. RCW 82.29A.136.

(21) **Municipally owned historic sites.** All leasehold interests in property that is:

- (a) Owned by a municipal corporation;
- (b) Listed on any federal or state register of historical sites; and
- (c) Wholly contained within a designated national historic reserve under 16 U.S.C. Sec. 461.

(22) **Amphitheaters.** All leasehold interests in the public or entertainment areas of an amphitheater if a private entity is responsible for one hundred percent of the cost of constructing the amphitheater which is not reimbursed by the public owner, both the public owner and the private lessee sponsor events at the facility on a regular basis, the lessee is responsible under the lease or agreement to operate and maintain the facility, and the amphitheater has a seating capacity of over seventeen thousand reserved and general admission

seats and is in a county with a population of over three hundred fifty thousand, but less than four hundred twenty-five thousand. For the purposes of this subsection, "public or entertainment areas" include box offices or other ticket sales areas, entrance gates, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality areas, kitchens or other work areas primarily servicing other public or entertainment areas, public rest room areas, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas including lawn seating areas and suites, stages, and any other areas to which the public has access or which are used for the production of the entertainment event or other public usage, and any other personal property used for these purposes. "Public or entertainment areas" does not include office areas used predominately by the lessee.

[Statutory Authority: RCW 82.29A.140, 05-23-092, § 458-29A-400, filed 11/16/05, effective 12/17/05; 02-18-036, § 458-29A-400, filed 8/26/02, effective 9/26/02; 99-20-053, § 458-29A-400, filed 10/1/99, effective 11/1/99.]

WAC 458-29A-500 Leasehold excise tax—Liability.

(1) **Introduction.** The event triggering a leasehold excise tax liability is the use by a private person or entity of publicly owned, tax-exempt property.

Where a lessee is also a tax-exempt government entity, the tax will apply against a private sublessee, even though no contractual arrangement exists between the sublessee and the public lessor.

(2) **Lessor's responsibility to collect and remit tax.** The public lessor is responsible for collecting and remitting the leasehold excise tax from its private lessees. If the public lessor collects the leasehold excise tax but fails to remit it to the department, the public lessor is liable for the tax.

(a) Where the public lessor has attempted to collect the tax, but has received neither contract rent nor leasehold excise tax from the lessee, the department will proceed directly against the lessee for payment of the tax and the lessee shall be solely liable for the tax, provided, the lessor notifies the department in writing when the lessor is unable to collect rent and/or taxes, and the amount of the leasehold excise tax arrearage is \$1000 or greater. If the lessor fails to notify the department, the department may, in its discretion, look to the public lessor for payment of the tax.

(b) If, upon examining all of the facts and circumstances, the department determines that the public lessor in good faith believed the lessee to be exempt from all or part of the leasehold excise tax, the department will look to the public lessor for assistance in collection of the tax due, but will not hold the public lessor personally liable for payment of such tax. To satisfy the requirement of "good faith" the public lessor must have acted with reasonable diligence and prudence to determine whether the leasehold excise tax was due from the lessee.

(3) The following examples, while not exhaustive, illustrate some of the circumstances in which a public lessor may or may not be held liable for the leasehold excise tax. These examples should be used only as a general guide. The status

of each situation must be determined after a review of all of the facts and circumstances.

(a) Doug has been newly hired in the accounting department at City Port and is assigned the responsibility for its rental accounts. He is unaware of the leasehold excise tax laws and fails to bill new tenants for the leasehold excise tax. In this situation, City Port does not avoid possible liability for the tax. Accounting errors and lack of knowledge regarding City Port's responsibility to collect and remit the leasehold excise tax do not qualify as reasonable diligence and prudence.

(b) Sybil rents an apartment in a building owned by State University but she is not a student of the University and the building is not used for student housing. She pays \$900 per month in rent. The terms of the lease require her to give at least thirty days' notice of intent to vacate. In the month of March, she fails to pay her rent, and State University serves her with a notice to pay or quit the premises. On April 1, she sends a check to State University for \$2016 (two months' rent, plus leasehold excise tax). The bank does not honor the check, and Sybil abandons the premises in mid-April without notice. When State University discovers that she has left, it timely notifies the department of the unpaid rent and leasehold excise tax. State University has acted with reasonable prudence and diligence and will not be held liable for the unpaid leasehold excise tax. In serving Sybil with a notice to pay or quit when she first defaulted, State University attempted to mitigate the amount of rent and taxes which were unpaid, and it complied with all other requirements regarding its duty to report the arrearages to the department.

(c) Sonata City owns several houses on property which may be used in the future for office buildings, a fire station, or perhaps a park, depending on its future needs. The city leases the houses on six-month terms, mainly to students who attend the local college. Over the past four years that the city has rented the properties, it has not collected leasehold excise tax from the tenants, because city officials believed the property to be exempt since they planned someday to use the property for a public purpose. Following an audit, it is determined that there is no definite plan for destruction of the houses nor any funds allocated for construction of public buildings on the site. Further, the houses were not rented on a month-to-month basis. Therefore, leasehold excise tax is due. Most of the prior tenants have left the area, and there is no convenient way for the city to collect the unpaid leasehold tax. Sonata City is liable for the tax because although its managers did not believe the tax was due, the lack of knowledge regarding the city's responsibility to collect and remit the leasehold excise tax does not qualify as reasonable diligence and prudence. Sonata City had a duty to make a good faith effort to determine its obligations under the applicable leasehold excise tax statutes and rules.

[Statutory Authority: RCW 82.29A.140, 99-20-053, § 458-29A-500, filed 10/1/99, effective 11/1/99.]

WAC 458-29A-600 Leasehold excise tax—Collection and administration. (1) **Introduction.** Leasehold excise tax is levied by the state under RCW 82.29A.030 and by counties and/or cities under RCW 82.29A.040. The administrative procedures contained in chapters 82.02 and 82.32 RCW

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apply to the administration and collection of the leasehold excise tax.

(2) **Tax imposed.** The rates at which leasehold excise tax is levied are contained in RCW 82.29A.030 and 82.29A.040. The department publishes documents containing the applicable rates, credits, and formulas. These documents are updated as necessary and are available upon request.

(3) **Separate listing requirement.** The amount of leasehold excise tax due must be listed separately from the amount of contract rent on any statement or other document provided to the lessee by the lessor. If the leasehold excise tax is not stated separately from the contract rent, it is assumed that the leasehold excise tax is not included in the amount stated as due.

(4) **Credits allowed against leasehold excise tax.** Because the leasehold excise tax is intended only to equalize treatment between private property owners and lessees of public entities, the amount of leasehold excise tax should not exceed the amount of property tax that would be due if the leased property was privately owned. Therefore, in calculating the taxes imposed under RCW 82.29A.030 and 82.29A.-040, RCW 82.29A.120 authorizes the following credits:

(a) **Leasehold interests created after April 1, 1986, or situations where the department has established taxable rent.** Where a leasehold interest other than a product lease was created after April 1, 1986, or where the department has established taxable rent in accordance with RCW 82.29A.020 (2)(b), and the amount of leasehold excise tax due is greater than the amount of property tax that would be due if the property was privately owned by the lessee, without regard to any property tax exemption under RCW 84.36.381, a credit equal to the difference between the leasehold excise tax and the comparable property tax will be allowed.

If the property is subleased, the credit must be passed on to the sublessee. Lessees and sublessees of residential property who would qualify for either a partial or total exemption from property tax under RCW 84.36.381 if they owned the property in fee are eligible for a corresponding reduction in the amount of leasehold excise tax due. The leasehold excise tax for the qualifying lessees or sublessees is reduced by the same percentage as the percentage reduction in property that would result from the property tax exemption under RCW 84.36.381.

(b) **Product leases.** A credit of thirty-three percent of the total leasehold excise tax due is allowed for product leases.

(5) **When payment is due.** The leasehold excise taxes are due on the same date that the contract rent is due to the lessor. If the contract rent is paid to someone other than the lessor, the leasehold tax is due at the time the payment is made to that other person or entity. Any prepaid contract rent will be deemed to have been paid in the year due and not in the year in which it was actually paid if the prepayment is for more than one year's rent. If contract rent is prepaid, the leasehold tax payment may be prorated over the number of years for which the contract rent is prepaid. The prorated portion of the tax will be due in two installments per year, with no less than one-half due on or before May 31 and the second half due no later than November 30 of each year.

(6) **Collection and distribution of tax by the department.** The department collects and distributes the leasehold

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excise taxes authorized by RCW 82.29A.030 and 82.29A.-040.

(a) **Taxes levied by the state.** All money received by the department from leasehold taxes levied under RCW 82.29A.-030 is transmitted to the state treasurer for deposit in the general fund.

(b) **Taxes levied by counties and cities.** Prior to the effective date of the ordinance imposing a leasehold excise tax, the county or city imposing the tax must contract with the department for administration and collection services. The department may deduct a percentage, not to exceed two percent, of the taxes collected as reimbursement for administration and collection expenses. The department deposits the balance of the taxes collected in the local leasehold excise tax account with the state treasury, and the state treasurer bimonthly distributes those moneys to the counties and cities.

County treasurers must proportionately distribute the moneys they receive in the same manner they distribute moneys collected from property tax levies in accordance with RCW 84.56.230, provided that no moneys are to be distributed to the state or any city, and the pro rata calculation for proportionate distribution cannot include any levy rates by the state or any city.

(7) **Leasehold interests in federally owned land or federal trust land.** Lessees with a leasehold interest in federally owned lands or federal trust lands must report and remit the leasehold tax due directly to the department on an annual reporting basis.

[Statutory Authority: RCW 82.29A.140. 99-20-053, § 458-29A-600, filed 10/1/99, effective 11/1/99.]

Chapter 458-30 WAC

OPEN SPACE TAXATION ACT RULES

WAC

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458-30-540	Waiver of exemption.
458-30-550	Exemption—Removal or withdrawal.
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458-30-700	Designated forest land—Removal—Change in status—Compensating tax.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

Reviser's note: The former codification of Order 71-2, filed 3/26/71 and amended by Order 71-3, filed 4/29/71, showing related histories, was published in the Washington Administrative Code in Supp. #8 (4/1/71) and Supp. #9 (9/1/71). The sections showing captions and histories thereto are as follows:

Sections	458-30-005 Definitions. [Order 71-3, § 458-30-005, filed 4/29/71; Order 71-2, § 458-30-005, filed 3/26/71.]
	458-30-010 Classified lands. [Order 71-2, § 458-30-010, filed 3/26/71.]
	458-30-015 Agreement. [Order 71-2, § 458-30-015, filed 3/26/71.]
	458-30-020 Application. [Order 71-2, § 458-30-020, filed 3/26/71.]
	458-30-025 Application fee. [Order 71-2, § 458-30-025, filed 3/26/71.]
	458-30-030 Withdrawal—Breach. [Order 71-2, § 458-30-030, filed 3/26/71.]
	458-30-035 Assessor. [Order 71-2, § 458-30-035, filed 3/26/71.]
	458-30-040 Granting authority. [Order 71-2, § 458-30-040, filed 3/26/71.]
	458-30-045 Owner applicant. [Order 71-2, § 458-30-045, filed 3/26/71.]
	458-30-050 Treasurer. [Order 71-2, § 458-30-050, filed 3/26/71.]
	458-30-055 Basis for assessment. [Order 71-3, § 458-30-055, filed 4/29/71; Order 71-2, § 458-30-055, filed 3/26/71.]
	458-30-060 Valuation procedures. [Order 71-3, § 458-30-060, filed 4/29/71.]
	458-30-065 Training. [Order 71-3, § 458-30-065, filed 4/29/71.]

Order PT 73-9, filed 10/30/73 adopts amended sections which are, in some respects, unrelated to former codification and adopts as new sections formerly codified rules which have been published in the Washington Administrative Code under another section number. Prior histories have been codified as part of a history where a similar subject has been amended. Please consult the above list, as filed by Order PT 73-9, for clarification.

458-30-005	Definitions. [Order PT 73-9, § 458-30-005, filed 10/30/73; Order 71-3, § 458-30-005, filed 4/29/71; Order 71-2, § 458-30-005, filed 3/26/71. [See reviser's note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
458-30-010	Classified lands. [Order PT 73-9, § 458-30-010, filed 10/30/73; Order 71-2, § 458-30-010, filed 3/26/71. [See reviser's note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.

458-30-015	Agreement. [Order PT 73-9, § 458-30-015, filed 10/30/73; Order 71-2, § 458-30-015, filed 3/26/71. [See reviser's note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.	458-30-095	Assessor to note classification on assessment and tax roll. [Order PT 73-9, § 458-30-095, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
458-30-020	Application. [Order PT 73-9, § 458-30-020, filed 10/30/73; Order 71-2, § 458-30-020, filed 3/26/71. [See reviser's note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.	458-30-100	Assessor to record agreement and other notices. [Order PT 73-9, § 458-30-100, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
458-30-025	Application fee. [Order PT 73-9, § 458-30-025, filed 10/30/73; Order 71-2, § 458-30-025, filed 3/26/71. [See reviser's note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.	458-30-105	Notice of withdrawal to be filed with assessor—Assessor to withdraw. [Order PT 73-9, § 458-30-105, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
458-30-030	Withdrawal—Change of use. [Order PT 73-9, § 458-30-030, filed 10/30/73; Order 71-2, § 458-30-030, filed 3/26/71. [See reviser's note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.	458-30-110	Assessor to notify owner of value change. [Order PT 73-9, § 458-30-110, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
458-30-035	Additional tax. [Order PT 73-9, § 458-30-035, filed 10/30/73.] Repealed by 78-07-027 (Order PT 78-3), filed 6/16/78. Statutory Authority: RCW 84.34.141.	458-30-115	Granting authority. [Order PT 73-9, § 458-30-115, filed 10/30/73; Order 71-2, § 458-30-040, filed 3/26/71. [See reviser's note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
458-30-040	Breach—Change of use. [Order PT 73-9, § 458-30-040, filed 10/30/73.] Repealed by 78-07-027 (Order PT 78-3), filed 6/16/78. Statutory Authority: RCW 84.34.141.	458-30-120	Granting authority's action on application. [Statutory Authority: RCW 84.34.141, 78-07-027 (Order PT 78-3), § 458-30-120, filed 6/16/78; Order PT 73-9, § 458-30-120, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
458-30-045	Removal of a portion. [Order PT 73-9, § 458-30-045, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 chapter 84.34 RCW.	458-30-125	Owner applicant. [Order PT 73-9, § 458-30-125, filed 10/30/73; Order 71-2, § 458-30-045, filed 3/26/71. [See reviser's note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
458-30-050	Removal of classification. [Order PT 73-9, § 458-30-050, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.	458-30-130	Treasurer. [Order PT 73-9, § 458-30-130, filed 10/30/73; Order 71-2, § 458-30-050, filed 3/26/71. [See reviser's note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
458-30-055	Notification upon removal. [Order PT 73-9, § 458-30-055, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.	458-30-135	Advisory committee. [Order PT 73-9, § 458-30-135, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
458-30-056	Additional tax. [Statutory Authority: RCW 84.34.141, 78-07-027 (Order PT 78-3), § 458-30-056, filed 6/16/78.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.	458-30-140	Basis for assessment. [Order PT 73-9, § 458-30-140, filed 10/30/73; Order 71-3, § 458-30-055, filed 4/29/71; Order 71-2, § 458-30-055, filed 3/26/71. [See reviser's note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
458-30-057	Penalty. [Statutory Authority: RCW 84.34.141, 78-07-027 (Order PT 78-3), § 458-30-057, filed 6/16/78.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.	458-30-145	Valuation procedures. [Statutory Authority: RCW 84.34.141, 86-09-088 (Order PT 86-1), § 458-30-145, filed 4/23/86; 78-07-027 (Order PT 78-3), § 458-30-145, filed 6/16/78; Order PT 73-9, § 458-30-145, filed 10/30/73. Prior: Order 71-3, § 458-30-060, filed 4/29/71. [See reviser's note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
458-30-060	Additional tax—Date due. [Order PT 73-9, § 458-30-060, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.	458-30-146	Valuation cycle. [Statutory Authority: RCW 84.34.141, 78-07-027 (Order PT 78-3), § 458-30-146, filed 6/16/78.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
458-30-065	Conditions where additional tax not imposed. [Order PT 73-9, § 458-30-065, filed 10/30/73.] Repealed by 78-07-027 (Order PT 78-3), filed 6/16/78. Statutory Authority: RCW 84.34.141.	458-30-150	Change of timber land classification to chapter 84.33 RCW. [Order PT 73-9, § 458-30-150, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
458-30-070	Agreement may be abrogated by legislature. [Order PT 73-9, § 458-30-070, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.	458-30-155	Reclassification of farm and agricultural land under 1973 amendatory act. [Order PT 73-9, § 458-30-155, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
458-30-075	Assessor. [Order PT 73-9, § 458-30-075, filed 10/30/73; Order 71-2, § 458-30-075, filed 3/26/71. [See reviser's note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.	458-30-160	Training. [Order PT 73-9, § 458-30-160, filed 10/30/73; Order 71-3, § 458-30-065, filed 4/29/71. [See reviser's note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
458-30-080	Assessor to act on agricultural classification. [Order PT 73-9, § 458-30-080, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.		
458-30-085	Assessor to determine value. [Order PT 73-9, § 458-30-085, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.		
458-30-090	Assessor may require reports—Failure to comply. [Order PT 73-9, § 458-30-090, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.		

- 458-30-235 Granting authority response. [Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-235, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-235, filed 11/15/88.] Repealed by 95-21-002, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360.
- 458-30-255 Determination of value—Assessor's duties. [Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-255, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-255, filed 11/15/88.] Repealed by 01-15-015, filed 7/9/01, effective 8/9/01. Statutory Authority: RCW 84.34.141.
- 458-30-261 Five year average grain prices. [Statutory Authority: Chapter 84.34 RCW and RCW 84.08.010(2), 89-05-008 (Order PT 89-1), § 458-30-261, filed 2/8/89.] Repealed by 90-02-080 (Order PT 90-1), filed 1/2/90, effective 2/2/90. Statutory Authority: RCW 84.08.010(2) and 84.34.141.
- 458-30-290 Additional tax—Withdrawal. [Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-290, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-290, filed 11/15/88.] Repealed by 95-21-002, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360.
- 458-30-315 County financial authority—Duties. [Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-315, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-315, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-315, filed 11/15/88.] Repealed by 01-24-030, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 84.34.141.
- 458-30-335 Rating system—Procedure to establish. [Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-335, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-335, filed 11/15/88.] Repealed by 06-18-011, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 84.34.141.
- 458-30-340 Rating system—Adoption—Notice to owner—Loss of classification. [Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-340, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-340, filed 11/15/88.] Repealed by 06-18-011, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 84.34.141.
- 458-30-350 Reclassification of lands classified under chapter 84.34 RCW prior to 1973. [Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-350, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-350, filed 11/15/88.] Repealed by 01-24-030, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 84.34.141.
- 458-30-360 Correction of erroneous classification or reclassification. [Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-360, filed 10/4/95, effective 11/4/95.] Repealed by 99-17-042, filed 8/12/99, effective 9/12/99. Statutory Authority: RCW 84.34.141.
- 458-30-580 Rate of inflation—When published—Calculation. [Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-580, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-580, filed 11/15/88. Statutory Authority: RCW 84.34.360. 87-07-009 (Order PT 87-3), § 458-30-580, filed 3/10/87.] Repealed by 00-24-107, filed 12/6/00, effective 1/1/01. Statutory Authority: RCW 84.34.360 and 84.34.310.

WAC 458-30-200 Definitions. (1) **Introduction.** This rule provides definitions for the terms used in conjunction with land classified under the Open Space Taxation Act, codified as chapter 84.34 RCW. The terms listed in this rule are intended to act in concert with each other as appropriate.

(2) **Definitions.** For purposes of land classified under chapter 84.34 RCW, the following definitions apply:

(a) "Additional tax" means the additional property taxes that will be collected when classification is withdrawn or removed from land classified under chapter 84.34 RCW.

(b) "Affidavit" means the real estate excise tax affidavit required by chapter 82.45 RCW and chapter 458-61 WAC. The affidavit will be prescribed by the department and furnished to county treasurers. This form is used by landowners to report sales or transfers of classified land. The owner or transferor and the purchaser or transferee, or agents of each, must sign the affidavit under penalty of perjury.

(c) "Agreement" means an agreement executed between an owner and the granting authority regarding the classification of land as either open space or timber land under chapter 84.34 RCW.

(d) "Applicant" means the owner who submits an application for classification of land under chapter 84.34 RCW.

(e) "Application" means an application for classification of land under chapter 84.34 RCW.

(f) "Approval" means a determination by the granting authority that land qualifies for classification under chapter 84.34 RCW.

(g) "Appurtenance" refers to something used with, and related to or dependent upon another thing; that is, something that belongs to something else, an adjunct. The thing appurtenant is strictly necessary and essential to the proper use and enjoyment of the land, as well as useful or necessary for carrying out the purposes for which the land was classified under chapter 84.34 RCW.

(i) In terms of farm and agricultural land, an appurtenance is something used for a particular sort of farm and is widely and routinely used in the operation of the commercial agricultural enterprise.

(ii) For example, an appurtenance may be an outhouse, barn, or tool shed attached to or adjoining a dwelling or it may be equipment used for a particular purpose or task, such as tools, instruments, or machinery.

(h) "Aquaculture" means the growing and harvesting of marine or fresh water flora or fauna in a soil or water medium for commercial agricultural activities.

(i) "Assessor" means the county assessor or any agency or person who is authorized to act on behalf of the assessor.

(j) "Assessment year" means the year in which the property is listed and valued by the assessor and precedes the year in which the taxes on the property are due and payable.

(k) "Change in use" means a direct action taken by an owner that actually changes the use of, or has started changing the use of, classified land to a use that is not in compliance with the conditions of the agreement executed between the owner and the granting authority or to a use that is otherwise not in compliance with the provisions of chapter 84.34 RCW (see WAC 458-30-295).

(l) "Classified land" means a parcel(s) of land that has been approved by the appropriate granting authority for taxation under chapter 84.34 RCW.

(m) "Commercial agricultural purposes" means the use of land on a continuous and regular basis, prior to and subsequent to application for classification, that demonstrates that the owner or lessee is engaged in and intends to obtain through lawful means, a monetary profit from cash income received by engaging in the following commercial agricultural activities:

- (i) Raising, harvesting, and selling lawful crops;
- (ii) Feeding, breeding, managing, and selling of livestock, poultry, fur-bearing animals, or honey bees, or any products thereof;
- (iii) Dairying or selling of dairy products;
- (iv) Animal husbandry;
- (v) Aquaculture;
- (vi) Horticulture;
- (vii) Participating in a government-funded crop reduction or acreage set-aside program; or
- (viii) Cultivating Christmas trees or short-rotation hardwoods on land that has been prepared by intensive cultivation and tilling, such as by plowing or turning over the soil, and on which all unwanted plant growth is controlled continuously for the exclusive purpose of growing such trees.

An owner must engage in commercial agricultural activities on the land to demonstrate a commercial agricultural purpose.

(n) "Contiguous" means land that adjoins other land owned by the same owner or held under the same ownership. Land that is an integral part of a farming operation is considered contiguous even though the land may be separated by a public road, railroad, right of way, or waterway.

(o) "County financial authority" and "financial authority" mean the treasurer or any agency or person charged with the responsibility of billing and collecting property taxes.

(p) "County legislative authority" means the county commission, council, or other legislative body.

(q) "County recording authority" means the auditor or any agency or person charged with the recording of documents.

(r) "Current" and "currently" means as of the date on which property is to be listed and valued by the assessor.

(s) "Current use value" means the taxable value of a parcel of land placed on the assessment rolls following its classification under chapter 84.34 RCW.

(t) "Department" means the department of revenue.

(u) "Farm woodlot" means an area of land within a parcel(s) of classified farm and agricultural land that is used in a manner compatible with commercial agricultural activities including, but not limited to, the growing and cutting of trees for the use of the owner or the sheltering of livestock.

(v) "Granting authority" means the appropriate agency or official that acts on an application for classification under chapter 84.34 RCW. The granting authority for:

(i) Open space classification under RCW 84.34.020(1) and 84.34.037 is the county legislative authority. However, for applications within an incorporated area of a county, the granting authority is made up of three members of the county legislative body and three members of the city legislative body in the county in which the land is located;

(ii) Farm and agricultural classification under RCW 84.34.020(2) and 84.34.035 is the assessor or the assessor's designee; and

(iii) Timber land classification under RCW 84.34.020(3) and 84.34.041 is the county legislative authority. However, for applications within an incorporated area of a county, the granting authority is made up of three members of the county legislative body and three members of the city legislative body in the county in which the land is located.

(w) "Gross income" means cash income derived from commercial agricultural activities, including payments received from the United States Department of Agriculture for participating in a crop reduction or acreage set-aside program when such payments are based on the productive capacity of the land. The term shall not include the following:

(i) The value of any products produced on the land and consumed by the owner or lessee;

(ii) Cash income derived from leases for the use of the land for noncommercial agricultural activities; or

(iii) Payments for soil conservation programs.

(x) "Incidental use" means a use of land classified as farm and agricultural land that is compatible with commercial agricultural activities if it does not exceed twenty percent of the classified land. An incidental use may include, but is not limited to, wetland preservation, a gravel pit, a farm woodlot, or a produce stand.

(y) "Integral" means that which is central to or inherent in the use or operation of classified farm and agricultural land for commercial agricultural activities.

(z) "Interest" means the amount of applicable interest upon additional tax.

(aa) "Net cash rental" means the earning or productive capacity of farm and agricultural land less the production costs customarily or typically paid by an owner or landlord. See WAC 458-30-260 for a more detailed explanation.

(bb) "Notice of continuance" means the notice signed when land classified under chapter 84.34 RCW is sold or transferred if the new owner of the land intends to continue the classified use of the land and elects to have the land remain classified under chapter 84.34 RCW. This notice is part of the real estate excise tax affidavit or may be a separate document prepared by the department and attached to this affidavit.

(cc) "Owner" means:

(i) Any person(s) having a fee interest in a parcel of land; or

(ii) The contract vendee when the land is subject to a real estate contract.

(dd) "Parcel of land" means a property identified as such on the assessment roll. For purposes of chapter 84.34 RCW and this WAC chapter, a parcel shall not include any land area not owned by the applicant including, but not limited to, a public road, right of way, railroad, or waterway.

(ee) "Penalty" means the amount due when land is removed from classification under chapter 84.34 RCW. The amount of the penalty is equal to twenty percent of the additional tax and interest calculated in accordance with RCW 84.34.080 or 84.34.108.

(ff) "Planning authority" means the local government agency empowered by the appropriate legislative authority to develop policies and proposals relating to land use.

(gg) "Primary use" means the existing use of a parcel or parcels of land so prevalent that when the characteristic use

of the land is evaluated a conflicting or nonrelated use appears to be very limited or excluded.

(hh) "Qualification of land" means the approval of an application for classification of land by a granting authority in accordance with chapter 84.34 RCW.

(ii) "Rating system" means a public benefit rating system adopted for classified open space land according to RCW 84.34.055.

(jj) "Reclassification" means the process by which land classified under chapter 84.34 or 84.33 RCW is changed from one classification to a different classification established by chapter 84.34 RCW or into forest land as described in chapter 84.33 RCW. For example, land classified as farm and agricultural land under RCW 84.34.020(2) may be reclassified as open space land under RCW 84.34.020(1).

(kk) "Removal" or "removed" means land classified under chapter 84.34 RCW is removed from classification by the assessor either because the owner requests removal, the new owner fails to sign the notice of classification continuance, or the land is no longer being used for the purpose for which classification was granted.

(ll) "Sale of ownership" means the conveyance of the ownership of a parcel of land in exchange for valuable consideration.

(mm) "Tax year" means the year when property tax is due and payable.

(nn) "Timber management plan" means the plan filed with the county legislative authority or the assessor when classified timber land is sold or transferred. It is synonymous with a "forest management plan" and details an owner's plan regarding the management of classified timber land including, but not limited to, the planting, growing and/or harvesting of timber. The elements of such a plan are set forth in WAC 458-30-232.

(oo) "Transfer" means the conveyance of the ownership of a parcel of land without an exchange of valuable consideration and may include situations where classified land is donated to an owner, corporation, partnership, or limited liability corporation.

(pp) "True and fair value" is the value of a parcel of land placed on the assessment rolls at its highest and best use without regard to its current use. The term also refers to market value, that is, the amount of money a buyer of property willing, but not obligated to buy would pay a seller of property willing but not obligated to sell, taking into consideration all uses to which the property is adapted and might reasonably be applied.

(qq) "Withdrawal" or "withdrawn" means action taken by the owner of land classified under chapter 84.34 RCW by filing a notice of request to withdraw the land from classification under the current use program in compliance with RCW 84.34.070. Once land has been classified under chapter 84.34 RCW, it must remain so classified for at least ten years from the date of classification. At any time after eight years of the initial ten-year classification period have elapsed, the owner may file a notice of request to withdraw all or a portion of the land from classification with the assessor of the county in which the land is located. Land is withdrawn from classification as a result of a voluntary act by the owner.

[Statutory Authority: RCW 84.34.141, 84.34.020, and 84.34.030. 02-20-041, § 458-30-200, filed 9/24/02, effective 10/25/02. Statutory Authority:

(2007 Ed.)

RCW 84.34.141. 01-24-030, § 458-30-200, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-200, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-200, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-200, filed 11/15/88.]

WAC 458-30-205 Department of revenue—Duties.

(1) **Introduction.** This section explains the duties assigned to the department of revenue in order to implement and administer chapter 84.34 RCW.

(2) **General authority.** The department shall maintain general administrative authority to assure that chapter 84.34 RCW is effectively and equitably applied throughout the state. Accordingly, the department, upon request, shall provide all reasonable assistance to the granting authorities relating to the administration of chapter 84.34 RCW.

(3) **Forms.** The department shall design all application and other administrative forms necessary under chapter 84.34 RCW, except those forms necessary for the rating system. Forms relating to the rating system shall be designed by the granting authority. Granting authorities shall provide all forms to applicants who seek classification under chapter 84.34 RCW.

(4) **Training.** The department shall provide the guidelines and necessary training to assessors and county boards of equalization so that they may administer chapter 84.34 RCW. Members of the advisory committee and members of any granting authority may attend the training sessions provided by the department.

(5) **Wheat and barley prices.** The department shall annually issue by December 31, by whatever means it deems suitable, a five-year average of wheat and barley prices for use by the assessor in the following assessment year.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-205, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-205, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-205, filed 11/15/88.]

WAC 458-30-210 Classification of land under chapter 84.34 RCW.

(1) **Introduction.** Under chapter 84.34 RCW, land may be placed into one of three classifications on the basis of its current use. This rule explains and describes each classification of land as defined in RCW 84.34.020.

(2) **Definitions.** For purposes of this rule, the following definitions apply:

(a) "Farm employee or farm and agricultural employee" means an individual who is employed on farm and agricultural land on a full time basis or a seasonal or migratory worker who works on farm and agricultural land only during the planting, growing, and/or harvesting seasons. The term also includes an individual who is employed at least twenty-five hours per week on farm and agricultural land. It does not include a person who is employed full time by a business activity that is not conducted on classified farm and agricultural land and who only works occasional weekends or during the harvest season on classified farm and agricultural land.

(b) "Integral" means that which is central to or inherent in the use or operation of classified farm and agricultural land

for commercial agricultural activities. For purposes of this rule, the residence of the farm operator or owner and/or housing for farm employees must be the place(s) from which the farmer conducts his/her commercial agricultural business.

(3) **Open space land.** Land classified as "open space land" means one of the following:

(a) Any parcel(s) of land so designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly.

(b) Any parcel(s) of land, whereby preservation in its present use would either:

(i) Conserve and enhance natural or scenic resources;

(ii) Protect streams or water supply;

(iii) Promote conservation of soils, wetlands, beaches, or tidal marshes;

(iv) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, natural reservations or sanctuaries, or other open spaces;

(v) Enhance public recreation opportunities;

(vi) Preserve historic sites;

(vii) Preserve visual quality along a highway, road, or street corridor, or scenic vistas;

(viii) Retain in its natural state, tracts of land of not less than one acre in size situated in an urban area and open to public use on such conditions as may be reasonably required by the granting authority; or

(ix) Any parcel(s) of farm and agricultural conservation land. Farm and agricultural conservation land means either:

(A) Land previously classified as farm and agricultural land that no longer meets the criteria of farm and agricultural land and is reclassified as "open space land"; or

(B) Traditional farmland that is not classified under chapter 84.33 or 84.34 RCW, has not been irrevocably devoted to a use inconsistent with agricultural uses, and has a high potential for returning to commercial agriculture.

(4) **Farm and agricultural land.** Land classified as "farm and agricultural land" means one of the following:

(a) Any parcel of land twenty or more acres in size or multiple parcels of land that are contiguous and total twenty or more acres in size when the land is:

(i) Primarily used to produce livestock or agricultural products for commercial purposes;

(ii) Enrolled in the federal conservation reserve program or its successor administered by the United States Department of Agriculture; or

(iii) Primarily used in similar commercial agricultural activities as may be established by rule.

(b) Any parcel of land or contiguous parcels of land at least five acres, but less than twenty acres, in size that is primarily used for commercial agricultural purposes, and produces a gross income each year equal to:

(i) One hundred dollars or more in cash per acre per year for three of the five calendar years preceding the date of application for classification when the application was made prior to January 1, 1993; or

(ii) Two hundred dollars or more in cash per acre per year for three of the five calendar years preceding the date of application for classification when the application is made on or after January 1, 1993.

(c) Any parcel of land or contiguous parcels of land less than five acres in size that is primarily used for commercial

agricultural purposes, and produces a gross income each year equal to:

(i) One thousand dollars or more in cash per year for three of the five calendar years preceding the date of application for classification when the application was made prior to January 1, 1993; and

(ii) One thousand five hundred dollars or more in cash per year for three of the five calendar years preceding the date of application for classification when the application is made on or after January 1, 1993.

(d) Any parcel of land that is twenty or more acres in size or multiple parcels of land that are contiguous and total twenty or more acres in size on which housing for farm and agricultural employees and the principal residence of the farm operator or the owner of land classified under RCW 84.34.020 (2)(a) is situated if:

(i) The housing or residence is on or contiguous to the classified parcel; and

(ii) The use of the housing or the residence is integral to the use of the classified parcel for agricultural purposes. (See WAC 458-30-317.)

(e) Farm and agricultural land also includes:

(i) Land on which appurtenances necessary for the production, preparation, or sale of commercial agricultural products are situated when the appurtenances are used in conjunction with the land(s) producing agricultural products, such as a machinery maintenance shed or a shipping facility located on farm and agricultural land that produces the products to be shipped;

(ii) Land incidentally used for an activity or enterprise that is compatible with commercial agricultural purposes as long as the incidental use does not exceed twenty percent of the classified land. An incidental use of classified farm and agricultural land may include, but is not limited to, wetland preservation, a gravel pit, a farm woodlot, or a produce stand; and

(iii) Any noncontiguous parcel of land from one to five acres in size that constitutes an integral part of the commercial agricultural operations of a parcel classified as farm and agricultural land under RCW 84.34.020(2).

(5) **Timber land.** Land classified as "timber land" means any parcel of land five or more acres in size or multiple parcels of land that are contiguous and total five or more acres in size that is primarily used for the commercial growth and harvesting of forest crops.

(a) Timber land refers only to the land.

(b) Timber land does not include:

(i) Land listed on the assessment roll as designated forest land according to chapter 84.33 RCW; or

(ii) Land on which nonforest crops or any improvements to the land are located.

[Statutory Authority: RCW 84.34.141, 84.34.020, and 84.34.030. 02-20-041, § 458-30-210, filed 9/24/02, effective 10/25/02. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-210, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-210, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-210, filed 11/15/88.]

WAC 458-30-215 Application process. (1) Introduction. This section explains the general application procedures of classification of land under chapter 84.34 RCW

including where to obtain an application and the information that must accompany an application for classification or reclassification.

(2) **Availability of forms.** The assessor and the county legislative authority shall make available application forms for classification or reclassification and shall supply them upon request.

(a) The assessor and the county legislative authority shall provide the appropriate forms, informational materials (including, but not limited to, copies of chapter 84.34 RCW and chapter 458-30 WAC), and reasonable assistance to an owner who submits an application for classification or reclassification of land under chapter 84.34 RCW.

(b) If the county legislative authority adopts a public benefit rating system for the open space classification, it shall prepare the appropriate forms, provide informational materials, and provide assistance to applicants.

(3) **The applicant.** The applicant shall be the owner of the land described on the application.

(4) **If land is purchased or transferred while application is pending.** In the event a parcel is conveyed while approval of a timely filed application is pending, the purchaser or transferee shall, upon written request to the granting authority, be given the same consideration as the original applicant; in all aspects of the application process the purchaser or transferee shall assume the original applicant's rights and responsibilities in the application process. However, except for the application fee, the granting authority shall require the purchaser or transferee to satisfy all requirements that otherwise would have been required in accordance with the original application.

(5) **Application due date.** Application for classification of land according to chapter 84.34 RCW shall be made from January 1 through December 31 for classification or reclassification and the assessment of the land in its classified status will begin on January 1 in the year following application.

(a) In other words, application must be made during the calendar year preceding the assessment year in which the classification or reclassification is to begin and the taxes on the land based on its classified use and status are payable the year following the assessment year.

(b) Example. An owner submits an application for classification on April 1, 1993. If it qualifies for classification, the land will be assessed based on its current use status for assessment year 1994 and the owner will pay taxes based on this assessment in 1995.

(6) **Information to accompany application.** The application for classification or reclassification shall require only such information as is reasonably necessary to properly classify an area of land under the provisions of chapter 84.34 RCW, including a signed statement as to the truth of the information. It shall also include a statement that the applicant is aware of the potential tax liability involved when the land ceases to qualify as open space, farm and agricultural, or timber land. Additionally, the applicant shall provide a legal description of the parcel of land that is acceptable to the assessor and the granting authority, who shall determine the appropriate classification according to the provisions of chapter 84.34 RCW.

(7) **Land in multiple counties.** If the land described in the application for classification or reclassification is in more

than one county, the owner shall file a separate application with the granting authority of each county.

(8) **Waiting period imposed after application is denied.** If an application for classification or reclassification is denied, a reapplication covering the same parcel of land, or a portion thereof, may not be submitted to the granting authority until three hundred sixty-five days have elapsed from the date the initial application was received.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-215, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-215, filed 11/15/88.]

WAC 458-30-220 Application fee. (1) Introduction.

This section explains the processing fee that may be established by the city or county legislative authority and that may be required when an application for classification or reclassification is submitted. It also explains the manner in which the amount of this fee is determined and the distribution of this fee upon receipt.

(2) **Processing fee.** The city or county legislative authority may, at their discretion, require a processing fee to accompany each application. This fee shall be in an amount that reasonably covers the processing costs of the application.

(a) If any agreement is to be recorded, the cost of such recording shall come from the fee.

(b) The fee shall be made payable to the county financial authority, who shall forward a portion of the fee to any city in which the parcel of land is located in proportion to the land area included in the city to the total land area of the parcel.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-220, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-220, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-220, filed 11/15/88.]

WAC 458-30-225 Application for farm and agricultural classification. (1) Introduction. This section explains the application process for an applicant who seeks to have land classified or reclassified as farm and agricultural land under RCW 84.34.020(2).

(2) **Where to submit - granting authority.** An application for classification or reclassification as farm and agricultural land shall be made to the assessor of the county in which the land is located. The assessor shall be the granting authority.

(3) Duties of assessor.

(a) The assessor shall act on each application with due regard to all relevant evidence and may approve or deny the application in whole or in part. If any part of the application is denied, the applicant may withdraw the entire application.

(b) Except as provided by chapter 84.34 RCW and chapter 458-30 WAC, the assessor cannot impose conditions or restrictions regarding the approval of an application for classification or reclassification as farm and agricultural land.

(c) The assessor shall consider the relevant zoning ordinances and regulations. If a zoning ordinance prohibits the farm and agricultural activity for which classification or reclassification is being sought, the assessor shall deny the application.

(d) Upon receipt of an application for classification or reclassification, the assessor may require the applicant(s) to provide data regarding the current use of the land, including the productivity of typical crops, sales receipts, federal income tax returns including schedules documenting farm income, other related income and expense data, and any other information relevant to the application. Failure to provide the requested information shall be cause to deny an application. Generally, prospective use of the land may not be relevant evidence in acting upon an application.

(e) After an application has been approved and the classification or reclassification has been granted, the assessor may review the classification at any time.

(f) The assessor shall retain a copy of all applications submitted.

(g) The assessor may consider the land area used as a homesite in determining the eligibility of a parcel of land for farm and agricultural classification. If the homesite does not qualify for classification as farm and agricultural land in accordance with RCW 84.34.020 (2)(d) and WAC 458-30-210 (4)(d), the land shall be taxed at its true and fair value.

(4) **Approval.** If no written determination is provided to the applicant prior to May 1 of the year following receipt of the application, the application shall be considered approved.

(5) **Denial.** The assessor may approve or deny an application for classification in whole or in part.

(a) The assessor shall notify the applicant in writing of the extent to which the application is approved or denied.

(b) An applicant who receives a notice that his or her application has been denied may appeal this decision to the board of equalization in the county where the land is located. The appeal shall be filed within thirty calendar days of the date the notice of denial was mailed and shall be in the form specified in RCW 84.40.038.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-225, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-225, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-225, filed 11/15/88.]

WAC 458-30-230 Application for open space classification. (1) **Introduction.** This section explains the application process for an applicant who seeks to have land classified or reclassified as open space land under RCW 84.34.020 (1).

(2) **Where to submit.** An application for classification or reclassification of land as open space shall be made to the county legislative authority of the county in which the land is located.

(3) **Granting authority.** The identity of the entity that will act as the granting authority shall be determined by the location of the land the applicant seeks to classify or reclassify as open space land. The granting authority shall be determined as follows:

(a) If the parcel(s) of land is located in an unincorporated area of the county, the county legislative authority shall be the granting authority.

(b) If the parcel(s) of land is located in an incorporated area of the county, a copy of the application for classification or reclassification shall be forwarded to the city legislative

authority in which the land is located. The granting authority shall be composed of three members of the county legislative authority and three members of the city legislative authority.

(4) **Application process.** An application for classification or reclassification of a parcel(s) of land as open space land shall be processed as follows:

(a) Comprehensive land use plan. The granting authority shall determine whether or not the land is located in an area designated as "open space" by an official comprehensive land use plan adopted by a city or county and zoned accordingly.

(i) If the land is in an area subject to a comprehensive plan, the application for classification or reclassification shall be treated in the same manner as a proposed amendment to that plan.

(ii) If the land is in an area not subject to a comprehensive plan, a public hearing on the application shall be conducted. A notice of this hearing shall be announced once by publication in a newspaper of general circulation in the region, city, or county at least ten days before the hearing. The owner who submitted the application for classification or reclassification that is the subject of the public hearing shall be notified in writing of the date, time, and location of this hearing.

(b) Factors to consider. In determining whether an application for classification or reclassification as open space land should be approved, the granting authority:

(i) May take particular notice of the benefits to the general welfare of preserving the current use of the parcel(s) of land described in the application; and

(ii) Shall consider the following:

(A) The revenue loss or tax shift that will result from granting the application;

(B) Whether granting the application for classification or reclassification of land under RCW 84.34.020 (1)(b) will:

(I) Conserve or enhance natural, cultural, or scenic resources;

(II) Protect streams, stream corridors, wetlands, natural shorelines, and aquifers;

(III) Protect soil resources, unique or critical wildlife, and native plant habitat;

(IV) Promote conservation principles by example or by offering educational opportunities;

(V) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries, or other open spaces;

(VI) Enhance recreation opportunities;

(VII) Preserve historic and archaeological sites;

(VIII) Preserve visual quality along highway, road, and street corridors or scenic vistas; or

(IX) Affect any other factors relevant in weighing benefits to the general welfare of preserving the current use of the land; and

(C) Whether granting the application for classification or reclassification of land as farm and agricultural conservation land (RCW 84.34.020 (1)(c)) will:

(I) Either preserve land previously classified as farm and agricultural land under RCW 84.34.020(2) or preserve traditional farmland not classified under chapter 84.33 or 84.34 RCW;

(II) Preserve land with a potential for returning to commercial agriculture; and

(III) Affect any other factors relevant in weighing general benefits of preserving the current use of the property.

(iii) In addition to the foregoing concerns, the granting authority shall consider:

(A) The existence of any mining claim or mining lease on the land, and if such a claim or lease will seriously interfere with the considerations stated in (b)(i) and (ii) of this subsection. If the granting authority determines serious interference will occur, it may deny the application in whole or in part. If a mining claim or mining lease is obtained after the land is classified or reclassified, the same determination must be made in deciding whether serious interference will occur; and

(B) The zoning of the parcel(s) of land at the time the application for classification or reclassification is filed.

(5) **Approval or denial of application.** The granting authority shall either approve or disapprove the application within six months of the date the completed application was received by the county legislative authority.

(a) The granting authority may approve the application for classification or reclassification in whole or in part. If any part of the application is denied, the applicant may withdraw the entire application.

(b) In approving the application in whole or in part, the granting authority may also require that certain conditions be met including, but not limited to, the granting of easements. As a condition of granting an application for open space classification, the granting authority may not require public access on land classified under RCW 84.34.020 (1)(b)(iii) to promote the conservation of wetlands.

(c) If approved, valuation of the land at its current use value shall begin on January 1 of the year following the year the application was filed. However, any application approved on or after July 1 of any year shall cause the land to be listed on the assessment roll at its current use value on January 1 of the following assessment year.

(d) When the application for classification or reclassification as open space has been approved, the granting authority shall prepare an agreement. See WAC 458-30-240 for a detailed description of this agreement.

(e) The granting or denial of an application for classification or reclassification as open space land is a legislative determination and shall be reviewable only for arbitrary and capricious actions.

(6) **Public benefit rating system.** When an application for classification or reclassification under RCW 84.34.020 (1)(b) and (c) is submitted regarding land that is subject to a public benefit rating system adopted under RCW 84.34.055, the county legislative authority shall rate the parcel(s) of land in accordance with the public benefit rating system to determine whether the application should be approved or denied.

Land that was classified under RCW 84.34.020 (1)(b) or (c) prior to the adoption of a public benefit rating system does not have to requalify for classification under the criteria of the public benefit rating system. The land shall not be removed from classification by an assessor. This land may be rated according to the public benefit rating system as appropriate. (See WAC 458-30-330, 458-30-335, and 458-30-340 for more information about the public benefit rating system.)

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(7) **Record retention.** The granting authority shall keep a record of each application, agreement, and records relating to each agreement.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-230, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-230, filed 11/15/88.]

WAC 458-30-232 Application for timber land classification. Introduction. This rule explains the application process used by an applicant who seeks to have land classified or reclassified as timber land under RCW 84.34.020(3).

Definition. For purposes of this rule, the following definitions apply:

(1) **"Stand of timber"** means a stand of trees that will yield log and/or fiber:

(a) Suitable in size and quality for the production of lumber, plywood, pulp, or other forest products; and

(b) Of sufficient value to cover at least all the costs of harvest and transportation to available markets.

(2) **"Timber management plan"** means a plan prepared by a professional forester, or by another person who has adequate knowledge of timber management practices, concerning the use of the land to grow and harvest timber. Such a plan includes the following elements:

(a) A legal description of the land;

(b) A statement that the timber land is held in contiguous ownership of at least five acres and is primarily devoted to and used to grow and harvest timber;

(c) A brief description of the timber on the timber land or, if the timber has been recently harvested, the owner's plan to restock the land with timber;

(d) A statement about whether the timber land is also used to graze livestock;

(e) A statement about whether the land has been used in compliance with the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW; and

(f) If the land has been recently harvested or supports a growth of brush and noncommercial type timber, a description of the owner's plan to restock the timber land within three years.

(3) **Where to submit.** An application for classification or reclassification of land as timber land under RCW 84.34.020(3) is submitted to the county legislative authority of the county in which the land is located.

(4) **Granting authority.** The identity of the entity that will act as the granting authority will be determined by the location of the land the applicant seeks to classify or reclassify as timber land. The granting authority will be determined as follows:

(a) If the parcel(s) of land is located in an unincorporated area of county, the county legislative authority is the granting authority.

(b) If the parcel(s) of land is located in an incorporated area, a copy of the application for classification is forwarded to the city legislative authority in which the land is located. The granting authority is composed of three members of the county legislative body and three members of the city legislative authority.

(5) Application process.

(a) Consider all relevant evidence. The granting authority will act upon the application with due regard to all relevant evidence.

(b) Information that must accompany application. An application for classification or reclassification of a parcel(s) of land as timber land is made on forms prepared by the department. An application must include the following information and be accompanied by a timber management plan as defined in subsection (2) of this rule:

(i) A legal description of or the parcel number(s) of all land the applicant desires to be classified as timber land;

(ii) The date or dates the land was acquired;

(iii) A brief description of the timber on the land or, if the timber has been harvested, the owner's plan for restocking;

(iv) If the timber or forest management plan for the land has existed for more than one year, the application must indicate the nature and extent to which the plan has been implemented or changed;

(v) Whether the land is used for grazing;

(vi) Whether the land has been subdivided or a plat has been filed with respect for the land;

(vii) Whether the land and the applicant have complied with the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;

(viii) Whether the land is subject to forest fire protection assessments under RCW 76.04.610;

(ix) Whether the land is subject to a lease, option, or other right that permits the land to be used for a purpose other than growing and harvesting timber;

(x) A summary of the applicant's past experience and activities in growing and harvesting timber;

(xi) A summary of the applicant's current and continuing activities in growing and harvesting of timber; and

(xii) A statement that the applicant is aware of the potential tax liability involved if the land ceases to be classified as timber land.

(c) Solitary factors that will result in automatic denial. An application may be denied for any of the following reasons without regard to any other factor:

(i) The land does not contain a stand of timber as defined in subsection (1) of this rule, as well as in chapter 76.09 RCW, and WAC 222-16-010. This reason alone is not sufficient to deny the application if:

(A) The land has been recently harvested or supports a growth of brush or noncommercial type timber and the application includes a plan for restocking within three years or a longer period necessitated because seed or seedlings are unavailable; or

(B) Only isolated areas within the land do not meet minimum standards due to rock outcroppings, swamps, unproductive soil, or other natural conditions.

(ii) The applicant, with respect to the land for which classification or reclassification is sought, has failed to comply with a final administrative or judicial order regarding a violation of the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW.

(iii) The land abuts a body of salt water and lies between the line of ordinary high tide and a line paralleling the ordinary high tide line and two hundred feet horizontally landward from the high tide line.

(6) **Public hearing required.** An application for classification of land as timber land will be approved or denied after a public hearing on the application is held. A notice of this hearing is to be announced once by publication in a newspaper of general circulation in the region, city, or county at least ten days before the hearing. The owner who submitted the application for classification or reclassification is to be notified in writing of the date, time, and location of the public hearing.

(7) **Timber management plan required.** A timber management plan must be filed with the county legislative authority either:

(a) When an application for classification is submitted; or

(b) Within sixty days of the date an application for reclassification under chapter 84.34 RCW or from designated forest land under chapter 84.33 RCW is received. The application for reclassification will be accepted, but may not be processed until the timber management plan is received. If this plan is not received within sixty days of the date the application for reclassification is received, the application will be denied.

(c) If circumstances require it, the assessor may allow an extension of time for submitting a timber management plan when an application for classification or reclassification is received. The applicant will be notified of this extension in writing. When the assessor extends the filing deadline for a timber management plan, the county legislative authority should delay processing the application until this plan is received. If this plan is not received by the date set by the assessor, the application for classification or reclassification will be automatically denied.

(8) **Approval or denial of application.** The granting authority will either approve or disapprove the application for classification or reclassification within six months of the date it is received by the county legislative authority.

(a) The granting authority may approve the application for classification or reclassification in whole or in part. If any part of the application is denied, the applicant may withdraw the entire application.

(b) In approving the application in whole or in part, the granting authority may also require that certain conditions be met. The granting authority may not require the granting of easements for land classified as timber land.

(c) The granting or denial of an application for classification as open space land or reclassification is a legislative determination and is reviewable only for arbitrary and capricious actions.

[Statutory Authority: RCW 84.34.141, 84.34.020, and 84.34.030. 02-20-041, § 458-30-232, filed 9/24/02, effective 10/25/02. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-232, filed 10/4/95, effective 11/4/95.]

WAC 458-30-240 Agreement relating to open space and timber land classifications. (1) Introduction. This section explains the contents of and the procedures relating to the agreement that is executed when an application for classi-

fication or reclassification as open space land under RCW 84.34.037 or timber land under RCW 84.34.041 has been approved by the granting authority.

(2) **Preparation and contents.** When an application for classification or reclassification as open space or timber land has been approved by the granting authority, the granting authority shall prepare an agreement. For purposes of this section, the date of approval shall be the date on which the granting authority approves the application for classification or reclassification.

(a) The agreement shall state all conditions attached to the approval of the application. The conditions of approval and any requirements of the classification detailed in the agreement shall be binding upon any heir, successor, or assignee of the parties of the original agreement.

(b) The agreement shall apply to the parcel(s) of land described in the agreement.

(c) The agreement may include, but is not limited to, a description of the ways the classified land may be used to retain its classified status, the actions that will cause removal of the land from classification, and the consequences of a change in the classified use of the land.

(3) **Submit agreement to owner for signature.**

(a) Within five calendar days after the approval of the application for classification or reclassification, in whole or in part, the granting authority shall deliver by certified mail, return receipt requested, the agreement to the owner for signature.

(b) The owner may accept or reject the agreement.

(c) If accepted, the agreement shall be signed and returned to the granting authority within thirty calendar days after receipt.

(d) If the agreement is not signed and returned to the granting authority within thirty days of the date the unsigned agreement was mailed to the owner, the granting authority shall conclusively presume the agreement has been rejected unless the owner can show proof that he or she was prevented from returning the agreement by events beyond his or her control.

(e) To be properly executed, the agreement shall be signed by the owner and shall become effective on the date the granting authority receives the signed agreement from the owner of the classified parcel(s) of land.

(4) **Executed agreement to be sent to assessor.** The granting authority shall, within ten days after receiving the signed agreement, send one copy to the assessor of the county in which the land is located.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-240, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-240, filed 11/15/88.]

WAC 458-30-242 Application for open space/farm and agricultural conservation land classification. (1) Introduction. The 1992 legislative changes to chapter 84.34 RCW created a subclassification of farm and agricultural conservation land within the open space classification. This section explains the criteria and procedures related to farm and agricultural conservation land.

(2) **Open space application criteria and process must be followed.** Farm and agricultural conservation land is not

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a separate classification within chapter 84.34 RCW. This type of land is merely a subclassification within the open space classification.

(a) To obtain the open space/farm and agricultural conservation land classification, the applicant must follow and comply with the procedures and requirements related to the open space classification. The process of applying for open space classification is set forth in RCW 84.34.037 and WAC 458-30-230.

(b) In addition to the information normally required to accompany an application for open space classification, an applicant seeking open space/farm and agricultural conservation land classification shall submit a statement about the previous use, the current use, and the intended future use of the land. If the land is traditional farmland that has never been classified under chapter 84.33 or 84.34 RCW, this information should be included in the applicant's signed statement.

(3) **Specific requirements for classification as open space/farm and agricultural conservation land.** To be classified as farm and agricultural conservation land, the land shall be:

(a) Previously classified as farm and agricultural land under RCW 84.34.020(2), that no longer meets the criteria for classification under RCW 84.34.020(2), and that shall be reclassified as open space land under RCW 84.34.020(1); or

(b) Traditional farmland that is not classified under chapter 84.33 or 84.34 RCW, that has not been irrevocably dedicated to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agricultural purposes.

(4) **Examples.**

(a) Farmer Jones and his wife own nineteen acres of classified farm and agricultural land. Farmer Jones dies and his wife inherits the classified land. Mrs. Jones realizes that she cannot actively farm the land and produce the annual amount of income required by RCW 84.34.020 (2)(b). She decides to have the land reclassified as farm and agricultural conservation land within the open space classification. The land may be reclassified as open space/farm and agricultural conservation land under subsection (3)(a) of this section if she submits an application for reclassification as open space/farm and agricultural conservation land and the application for reclassification is approved by the granting authority.

(b) Farmer McDowell has a fifty acre parcel of land on which he raises pigs and goats. He inherited this land from his father who farmed it before him. Also, the land has never been classified under chapter 84.34 RCW nor has it ever been designated forest land under chapter 84.33 RCW. As the result of an accident, Farmer McDowell breaks his back and cannot actively farm the land for an extended period of time. This land may be classified as open space/farm and agricultural conservation land under subsection (3)(b) of this section if Farmer McDowell submits an application for classification as open space/farm and agricultural conservation land, the application for classification is approved, the land is not irrevocably dedicated to a use inconsistent with agricultural uses, and the land has a high potential for returning to commercial agriculture.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-242, filed 10/4/95, effective 11/4/95.]

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WAC 458-30-245 Recording of documents. (1) Introduction. This section details the documents relating to lands classified under chapter 84.34 RCW that must be filed with the county assessor and the county recording authority in accordance with RCW 84.34.050.

(2) **Notice to assessor.** When the granting authority has classified land under chapter 84.34 RCW, the granting authority shall file a notice to this effect with the assessor within ten working days of making the determination. As to any land classified under chapter 84.34 RCW, the assessor shall annually make a notation on the county's assessment list and tax roll of the assessed value of this land for the use for which it is classified and the assessed value of this land if it were not so classified.

(3) **Agreement relating to open space land or timber land classification.** Within ten working days of receipt of an agreement regarding land classified as open space or timber land from a granting authority, the assessor shall submit the executed agreement to the county recording authority for recording in the place and manner provided for the public recording of tax liens on real property. The county recording authority shall return the agreement to the assessor following recording.

(4) **Notice of approval relating to farm and agricultural land classification.** Within ten working days of the approval of an application for farm and agricultural land classification or reclassification, the assessor shall send a notice of approval to the county recording authority for recording in the place and manner provided for the public recording of tax liens on real property.

(5) **Notice of withdrawal or removal.** When land is to be withdrawn or removed from classification under chapter 84.34 RCW, the assessor shall forward a notice of withdrawal or removal to the county recording authority. The county recording authority shall record all notices of withdrawal or removal. The owner shall pay all recording fees for the notices.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-245, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-245, filed 11/15/88.]

WAC 458-30-250 Approval or denial and appeal. (1) Introduction. This section describes the procedure an applicant must follow if his or her application for classification or reclassification under chapter 84.34 RCW is denied, in whole or in part, and he or she wishes to appeal the determination.

(2) **General requirement.** The granting authority shall immediately notify the assessor and the applicant of the approval or denial of an application for classification or reclassification. An application for classification or classification as open space, timber, or farm and agricultural land should be approved or denied no later than six months after the receipt of this application. However, if an application for classification or reclassification as farm and agricultural land is not denied, in whole or in part, by the first day of May of the year after the application was submitted, the application shall be deemed approved. For example, an application for classification as farm and agricultural land shall be considered approved if it was delivered to the assessor on August 30, 1993, and was not denied prior to May 1, 1994.

(3) **Written denials with reasons required.** All denials of an application for classification or reclassification shall be in writing and shall include the reasons for denial.

(4) **Owner's right to appeal.** The owner shall have the right to appeal any denial of an application for classification or reclassification.

(a) If an application for classification or reclassification as farm and agricultural land is denied by the granting authority, in whole or in part, the applicant may appeal to the board of equalization of the county in which the land is located within thirty calendar days of date the denial was mailed.

(b) If an application for classification or reclassification as either open space or timber land is denied by the granting authority, in whole or in part, the applicant may appeal only to the superior court of the county in which the land is located and the application was made.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-250, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-250, filed 11/15/88.]

WAC 458-30-260 Valuation procedures for farm and agricultural land. (1) Introduction. This section outlines the methods an assessor may use to determine the value of land classified as farm and agricultural land under chapter 84.34 RCW. The valuation procedures are outlined in RCW 84.34.065. The method used to value the principal residence of the farm operator or owner and the housing of farm and agricultural employees on classified farm and agricultural land is described in WAC 458-30-317.

(2) **Definitions.** For purposes of this section, the following definitions apply:

(a) "Landlord" means the person(s) or business enterprise that leases or rents classified farm and agricultural land to another person(s) or business entity.

(b) "Net cash rental" means the average rental paid on an annual basis, in cash, for the land being appraised and other farm and agricultural land of similar quality and similarly situated that is available for lease for a period of at least three years to any reliable person without unreasonable restrictions on its use for the production of agricultural crops.

(c) "Rate of interest" means the rate of interest charged by the farm credit administration and other large financial institutions regularly making loans secured by farm and agricultural lands through mortgages or similar legal instruments averaged over the immediate past five years.

(3) **General considerations.** The assessor shall use all available information to determine the productive or earning capacity of classified farm and agricultural land including, but not limited to, farm production information, actual crop production within an area averaged over not less than five years, and other relevant data. The assessor may also use reliable statistical sources. Additionally, a soil capability analysis may be considered in determining the productive or earning capacity of classified land.

(4) **Determination of current use value.** The value of classified farm and agricultural land shall be determined by the productive or earning capacity of comparable land from crops typically grown in the area averaged over not less than five years, capitalized at indicative rates. The assessor shall

use the capitalization of income method to value this type of classified land.

(a) The earning or productive capacity of comparable land is the "net cash rental," capitalized at a "rate of interest" charged on long-term loans secured by a mortgage on farm or agricultural land plus a component for property taxes. The rate of interest and the property tax component for each county are set forth in WAC 458-30-262.

(b) The value of classified farm and agricultural land shall be the net cash rental of the land divided by the capitalization rate.

(5) **Net cash rental.** The net cash rental to be capitalized shall be determined as follows:

(a) Based on leases. Leases of farm and agricultural land paid on an annual basis, in cash, shall be used in determining the net cash rental. The cash value of these leases shall include government subsidies if the subsidies are based on the earning or productive capacity of the land. Only leases of land that is available for rent for a period of at least three years to any reliable person without unreasonable restrictions on its use to produce agricultural crops may be used in this determination. Lease payments shall be averaged as follows:

(i) Each annual lease or rental payment for the land being valued and for other farm and agricultural land within the area of similar quality and upon which typical crops in the area are grown shall be averaged for at least the preceding five crop years; and

(ii) The typical cash rental for each year shall be averaged for at least the preceding five crop years.

(A) Costs of crop production customarily paid by the landlord may be deducted from the typical cash rental. All costs and expenses shall be averaged for at least the preceding five crop years.

(B) If the land is irrigated by a sprinkler system, the amount of rent attributable, if any, to the irrigation equipment shall be deducted from the gross cash rent to determine the net cash rental of the land only. However, the value of irrigation equipment will be placed on the assessment roll at its true and fair value.

(b) Earning or productive capacity of land. If only an insufficient number of leases are available, the earning or productive capacity of farm and agricultural land shall be calculated by determining the cash value of typical crops grown on land of similar quality and similarly situated within the area then subtracting the standard production costs of the crops. The cash value minus the production costs of typical crops are to be averaged over at least five crop years. Cash value shall include, but is not limited to, government subsidies if the subsidies are based on the earning or productive capacity of the land. Any acreage kept out of production because of government subsidies shall be included in the total acreage valued by the capitalization of the income method.

(c) When the land being valued is not being used for commercial agricultural purposes or when the available information is insufficient to determine the earning or productive capacity of the land, the assessor shall compute a reasonable amount based on the land's estimated productive capacity to be capitalized as income.

(6) **Capitalization rate.** The capitalization rate that is used to value classified farm and agricultural land is the sum of the following:

(a) An interest rate determined by the department on or before January 1st each year. This rate shall be the rate of interest charged on long-term loans secured by mortgages or similar legal instruments averaged over the immediate past five years; plus

(b) A component for property taxes determined by dividing the total taxes levied within the county for the year preceding the assessment by the total assessed value of all property within the county and multiplying the quotient by one hundred.

(7) **Appeal of interest rate determination.** The department shall annually determine a rate of interest and property tax component that shall be announced in a rule. (WAC 458-30-262.) This rule will be published in the *Washington State Register* before January 1st each year so that it may be used in that assessment year. The department's determination of the interest rate may be appealed to the state board of tax appeals within thirty calendar days after the date of publication by:

(a) Any owner of a parcel(s) of land classified as farm and agricultural; or

(b) The assessor of any county containing parcels of land that are classified as farm and agricultural under chapter 84.34 RCW.

(8) **Valuation of principal residence or housing for employees.** Land classified as farm and agricultural land because it is the site of the principal residence of the operator or owner of the land and the housing for farm and agricultural employees will be valued in accordance with RCW 84.34.065 and WAC 458-30-317. If the residence or housing for employees does not meet all the requirements for classification, the land may not be classified as farm and agricultural land and it must be valued at its true and fair value in accordance with WAC 458-12-301.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-260, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2) and 84.34.141. 90-02-080 (Order PT 90-1), § 458-30-260, filed 1/2/90, effective 2/2/90. Statutory Authority: RCW 84.08.010(2) and 84.34.065. 89-05-009 (Order PT 89-2), § 458-30-260, filed 2/8/89. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-260, filed 11/15/88.]

WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component. For assessment year 2007, the interest rate and the property tax component that are to be used to value classified farm and agricultural lands are as follows:

- (1) The interest rate is 7.18 percent; and
- (2) The property tax component for each county is:

COUNTY	PERCENT	COUNTY	PERCENT
Adams	1.28	Lewis	1.15
Asotin	1.39	Lincoln	1.29
Benton	1.28	Mason	1.24
Chelan	1.33	Okanogan	1.18
Clallam	0.99	Pacific	1.39
Clark	1.20	Pend Oreille	1.13
Columbia	1.30	Pierce	1.32
Cowlitz	1.25	San Juan	0.69
Douglas	1.33	Skagit	1.12
Ferry	0.90	Skamania	0.92
Franklin	1.38	Snohomish	1.11
Garfield	1.47	Spokane	1.44
Grant	1.37	Stevens	1.09
Grays Harbor	1.38	Thurston	1.21

COUNTY	PERCENT	COUNTY	PERCENT
Island	0.89	Wahkiakum	1.03
Jefferson	0.98	Walla Walla	1.46
King	1.04	Whatcom	1.15
Kitsap	1.07	Whitman	1.54
Kittitas	1.00	Yakima	1.22
Klickitat	1.08		

[Statutory Authority: RCW 84.34.065 and 84.34.141. 07-01-011, § 458-30-262, filed 12/7/06, effective 1/1/07; 05-24-028, § 458-30-262, filed 11/30/05, effective 1/1/06; 05-01-051, § 458-30-262, filed 12/7/04, effective 1/1/05; 03-24-013, § 458-30-262, filed 11/20/03, effective 12/21/03; 02-23-080, § 458-30-262, filed 11/19/02, effective 12/20/02; 02-03-040, § 458-30-262, filed 1/8/02, effective 2/8/02. Statutory Authority: RCW 84.34.065, 84.34.360. 00-24-105, § 458-30-262, filed 12/6/00, effective 1/1/01; 99-24-034, § 458-30-262, filed 11/23/99, effective 1/1/00. Statutory Authority: RCW 84.34.065, 84.34.360 and 84.08.010. 99-01-067, § 458-30-262, filed 12/14/98, effective 1/1/99. Statutory Authority: RCW 84.34.065, 84.34.141 and 84.08.010. 98-01-178, § 458-30-262, filed 12/23/97, effective 1/1/98. Statutory Authority: RCW 84.34.065, 84.34.141, 84.08.010 and 84.34.070. 97-02-066, § 458-30-262, filed 12/31/96, effective 1/1/97. Statutory Authority: RCW 84.34.065, 84.34.141, 84.08.010 and 84.34.070. 96-01-095, § 458-30-262, filed 12/19/95, effective 1/1/96. Statutory Authority: RCW 84.34.065, 84.34.141, 84.08.010 and 84.08.070. 95-09-041, § 458-30-262, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.34.065. 94-05-062, § 458-30-262, filed 2/11/94, effective 3/14/94. Statutory Authority: RCW 84.08.010 and 84.08.070. 93-07-067, § 458-30-262, filed 3/17/93, effective 4/17/93; 92-03-068, § 458-30-262, filed 1/14/92, effective 2/14/92; 91-04-001, § 458-30-262, filed 1/24/91, effective 2/24/91; 90-24-087, § 458-30-262, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2) and 84.34.141. 90-02-080 (Order PT 90-1), § 458-30-262, filed 1/2/90, effective 2/2/90.]

WAC 458-30-265 Valuation cycle. (1) Introduction.

This section explains the timing of revaluations of land classified under the provisions of chapter 84.34 RCW.

(2) **Revaluation cycle.** In determining the true and fair value and the current use value of classified lands, the assessor shall follow a revaluation cycle that adheres to the requirements contained in WAC 458-12-335 through 458-12-339. The cycle used shall be the same as that used for other real property in the county and shall be in an orderly manner, pursuant to a regular plan, and in a manner that is not arbitrary, capricious, or intentionally discriminatory.

(3) **Notice required.** The assessor shall notify the owner of classified lands of any change in the true and fair value and/or current use value in the same manner as prescribed in RCW 84.40.045.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-265, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-265, filed 11/15/88.]

WAC 458-30-267 Valuation procedures for open space and timber land. (1) Introduction. This section outlines the procedures set forth in RCW 84.34.060 about how to value land(s) classified as open space or timber land under the provisions of chapter 84.34 RCW.

(2) Open space land.

(a) In valuing land classified as open space, the assessor shall consider only the way in which the land and improvements are currently used; the assessor shall not consider potential uses of the land.

(b) The assessed value of open space land shall not be less than the minimum value per acre of classified farm and agricultural land.

(c) If open space land is located within a county where the county legislative authority has adopted an open space

plan and a public benefit rating system in accordance with RCW 84.34.055, the assessed value of this open space land may be based on the public benefit rating system. The open space plan shall contain criteria for determining eligibility of lands, the process for establishing a public benefit rating system, and an assessed valuation schedule. An assessed valuation schedule shall be developed by the assessor and shall be a percentage of true and fair value based on the public benefit rating system.

(3) **Timber land.** The assessor shall value classified timber land according to the provisions of chapter 84.33 RCW.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-267, filed 10/4/95, effective 11/4/95.]

WAC 458-30-270 Data relevant to continuing eligibility—Assessor may require owner to submit. (1) Introduction. This section explains the types of data or information the assessor may require a person seeking continued classification or reclassification to submit so that land may retain its eligibility or be reclassified under chapter 84.34 RCW.

(2) **General authorization.** The assessor may require an owner of land classified under chapter 84.34 RCW to submit data relevant to the use of the land, productivity of typical crops, and other information pertinent to continued classification or reclassification and appraisal of the land. The assessor may request any relevant information that will assist him or her in determining whether the land is eligible for continued classification or reclassification. Relevant data or information includes, but is not limited to:

(a) Receipts from sales of agricultural products produced on classified land;

(b) Federal income tax returns including schedules documenting farm income, production costs, and other operating expenses;

(c) Rental or lease agreements and receipts;

(d) Government payments and subsidies;

(e) Crop and livestock production data; or

(f) Other income and expense information related to the land for which continued classification or reclassification is sought.

(3) **Request for information - procedure.** The assessor shall send the request for information by first class mail. The person seeking continued classification or reclassification must submit the requested information or data, in writing, no later than sixty calendar days following the date the request was mailed.

(a) If no response is received within sixty days, the assessor's office shall send the owner a second request for information by certified mail, return receipt requested. This second request shall include a statement that failure to submit the requested information or data within thirty calendar days of the date of mailing may cause the land to be removed from classification.

(b) If the owner of classified land does not respond to a request for information, the assessor may remove the land from classification.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-270, filed 10/4/95, effective 11/4/95. Statutory Author-

ity: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-270, filed 11/15/88.]

WAC 458-30-275 Continuing classification upon sale or transfer of ownership of classified land—Actions of landowner and county officials to be taken prior to recording a conveyance of classified land. (1) **Introduction.** If land classified under chapter 84.34 RCW is sold or transferred and the new owner wants to retain the classified status of the land, certain procedures must be followed before the conveyance may be recorded or filed. This rule explains the necessary procedures and required forms.

(2) **General requirements - new owner elects to have the land remain classified.** The county recording authority shall not accept an instrument conveying ownership of land classified under chapter 84.34 RCW unless certain conditions are satisfied. When land classified under chapter 84.34 RCW is sold or transferred and the new owner elects to have the land retain its classified status, prior to recording or filing the conveyance, the new owner or the new owner's agent must:

(a) Sign the notice of continuance that is part of the real estate excise tax (REET) affidavit or sign a separate notice of continuance. (Subsection (9) of this rule contains an explanation about REET.) Both the REET affidavit and the notice of continuance are forms prepared by the department of revenue and supplied to the counties. Both forms are available from the department by sending a written request to:

Department of Revenue
Taxpayer Services
P.O. Box 47478
Olympia, WA 98504-7478.

A copy of the notice of continuance may be obtained from the county assessor or it may be downloaded from the internet at <http://dor.wa.gov/index.asp> under property tax, "forms." A copy of the REET affidavit may be obtained from the county treasurer. If the classified land is owned by multiple owners, all owners or their agent(s) must sign the notice of continuance on the affidavit or the separate notice of continuance; and

(b) Provide the assessor with a signed statement that explains how the new owner intends to use the classified land and any other information the assessor deems necessary to determine whether the land will continue to be eligible for classification under chapter 84.34 RCW. (See RCW 84.34.-121 and WAC 458-30-270.)

(3) **Required duties of the assessor before a conveyance of classified land may be filed or recorded.** The new owner must supply the assessor with the information outlined in subsection (2) of this rule if the new owner elects to have the land remain classified under chapter 84.34 RCW.

(a) After receiving all required documentation, the assessor is allowed up to fifteen calendar days to determine whether the land should retain its classified status or whether the land should be removed from classification as of the date of conveyance.

(b) To make this determination, the assessor may, but is not required to, consult with the county legislative authority if the land is classified as either open space or timber land or a combination of the county and city legislative bodies if the classified open space land is within an incorporated part of

the county. Both the assessor and the granting authority may require the new owner to submit additional information about the use of the classified land after the sale or transfer is complete. This information will be used to determine whether the land should remain classified under chapter 84.34 RCW.

(4) **When may a county recording authority accept an instrument conveying ownership of classified land?** A county recording authority shall not accept an instrument of conveyance regarding the sale or transfer of land classified under chapter 84.34 RCW for filing or recording until the new owner signs a notice of continuance and the assessor determines that the land will or will not continue to qualify for classification. If the assessor decides that the land must be removed from classification, the assessor will note that the land does not qualify for continuance on the REET affidavit and begin the removal procedures set forth in WAC 458-30-295.

(a) If the new owner signs the notice of continuance and the assessor agrees that the land should remain classified, the assessor checks the box on the REET affidavit that the land qualifies for continued classified current use status. The completed affidavit is then presented to the county recording authority so that it may record or file the conveyance. A completed REET affidavit includes a stamp, placed on it by the treasurer, indicating that any REET or additional tax, interest, and penalty owed as a result of the sale or transfer has been paid. (See subsection (9) of this rule for a more detailed explanation of the real estate excise tax.)

(b) If the assessor decides that the land must be removed or the owner submits a written request to remove the land from classification, the assessor will check the appropriate box on the REET affidavit that the land does not qualify for continuance, sign the REET affidavit, and begin the removal procedures set forth in WAC 458-30-295.

(5) **Land removed from classification with no back taxes imposed.** If the removal results solely from one of the circumstances or actions listed in RCW 84.34.108(6), no additional tax, interest, or penalty is imposed. The assessor will:

(a) Follow the procedures set forth in WAC 458-30-295 and 458-30-300 for removing land from classification;

(b) Notify the treasurer and the seller or transferor that no additional tax, interest, or penalty will be imposed; and

(c) If the land is acquired for conservation purposes by any of the entities listed in RCW 84.34.108 (6)(f), inform the new owner that a lien equal to the amount of additional tax, interest, and penalty has been placed on the land, even though the additional tax, interest, and penalty will not be collected at this time. This lien becomes due and payable if and when the land ceases to be used for one of the purposes outlined in RCW 64.04.130 or 84.34.210.

(6) **Sales or transfers of timber land.** When a parcel(s) of classified timber land is sold or transferred, the new owner must submit a timber management plan to the assessor and comply with the general requirements listed in subsection (2) of this rule to retain the land's classified status. The assessor sends a copy of the timber management plan to the granting authority of the county in which the classified land is located. WAC 458-30-232 contains a list of the types of additional information an assessor may require the new owner to submit to enable the assessor to determine whether the land will be

used to grow and harvest timber for commercial purposes. Generally, the new owner is required to submit a timber management plan at the time of sale or transfer. If circumstances require it, the assessor may allow an extension of time for submitting this plan when a notice of continuance is received. The applicant will be notified of this extension in writing. When the assessor extends the filing deadline for a timber management plan, the county legislative authority should delay processing the application until this plan is received. If the timber management plan is not received by the date set by the assessor, the notice of continuance will be automatically denied.

(7) Sales or transfers of farm and agricultural land.

When a parcel(s) of classified farm and agricultural land is sold or transferred, the new owner must comply with the general requirements listed in subsection (2) of this rule. The size of the classified land dictates whether any additional requirements must also be satisfied. After all required information is submitted, the assessor determines whether the land qualifies for continued classification.

(a) If the classified land sold or transferred is twenty acres or more, the new owner must satisfy the general requirements listed in subsection (2) of this rule.

(b) If the sale or transfer involves less than twenty contiguous acres, the new owner will be required to comply with the general requirements of subsection (2) of this rule and the seller or buyer may be asked to provide gross income data relating to the productivity of the farm or agricultural operation for three of the past five years. This income data is used to determine whether the land meets the income production requirements listed in RCW 84.34.020 (2)(b) and (c) for classification. However, if the income data is unavailable but the new owner is willing to sign the notice of continuance and accept the responsibility for any additional tax and interest owed for prior years that will be due if the land is later found to be ineligible for continued classification, the classified status of the land will continue until the assessor determines that the use of the land has changed or has not produced the requisite minimum income.

(i) RCW 84.34.020 (2)(b) and (c) set forth the minimum income production requirements for classified farm and agricultural land of less than twenty acres. Any sale or transfer of classified land is subject to these income limits. However, the income production requirements will not be examined when classified land is being transferred to a surviving spouse, but such land is subject to the same production requirements that were applicable before the spouse's death. For example, a sixteen acre parcel of classified farm and agricultural land, which was classified in 1998, is still required to produce a minimum of two hundred dollars per acre per year even though the assessor is not required to review the income production data at the time of sale or transfer.

(ii) Sale or transfer of land classified prior to January 1, 1993. As of January 1, 1993, the legislature imposed higher income production requirements on classified farm and agricultural land of less than twenty acres. When land classified prior to January 1, 1993, is sold or transferred to a new owner, the higher minimum income requirements set forth in RCW 84.34.020 (2)(b)(ii) and (c)(ii) will be deferred for a period of three years. The new owner is required to produce either two hundred dollars per acre per year if the parcel is

five acres or more or fifteen hundred dollars per year if the parcel is less than five acres at least once during the three calendar years immediately following the sale or transfer. For example, if classification was granted in 1978 to a fifteen acre parcel that produced a gross income of one hundred thirty dollars per acre per year until it was sold on April 15, 1999, the minimum income requirements will be deferred until 2002. By the end of 2002, the new owner must show that the parcel produced two hundred dollars per acre at least one year during the three-year period between 2000 and 2002. If the land produced a gross income of two hundred dollars per acre, the land remains classified as farm and agricultural land. If the land failed to produce this amount at least once during this three-year period, the land will be removed from classification and the owner will be required to pay additional tax, interest, and penalty.

(iii) Sale or transfer of land classified after January 1, 1993. The higher minimum income production requirements of RCW 84.34.020 (2)(b)(ii) and (c)(ii) apply to all land classified after January 1, 1993. When such land is sold or transferred, the assessor may ask the seller or buyer to provide gross income data relating to the productivity of the farm or agricultural operation for three of the past five years. This information will be used to determine whether the land should retain its status as classified farm and agricultural land. For example, a ten acre parcel that was classified as farm and agricultural land on May 1, 1995, is sold on February 23, 2001. The assessor asks the seller of the classified land to provide information about the income the land produced during the five calendar years preceding the sale (i.e., 1995 through 2000). To retain the farm and agricultural classification, the land must have produced a minimum income of two hundred dollars per acre per year at least three of the five calendar years preceding the date of sale. However, if the income data is unavailable but the new owner is willing to sign the notice of continuance and accept the responsibility for any additional tax and interest owed for prior years that will be due if the land is later found to be ineligible for continued classification, the classified status of the land will continue until the assessor determines that the use of the land has changed or has not produced the requisite minimum income.

(c) Segregation of land. If the sale or transfer of classified land involves a segregation, the owner of the newly created parcel(s) and the owner of the parcel from which the land was segregated must comply with the requirements for classification, including the production of minimum income, to enable the assessor to continue the classified status of the land.

(8) New owner's acknowledgement. The new owner, by signing the notice of continuance, acknowledges that future use of the land must conform to the provisions of chapter 84.34 RCW.

(9) Real estate excise tax (REET). An excise tax is generally imposed in accordance with chapter 82.45 RCW whenever real property is sold or transferred. The amount of this tax is based upon the selling price of the real property. Real estate excise tax is due at the time of sale. This tax is paid to and collected by the treasurer of the county in which the real property is located. (See RCW 82.45.010 for a listing of transactions that are not considered a sale or transfer upon which REET is imposed.)

[Statutory Authority: RCW 84.34.141, 84.34.020, and 84.34.030. 02-20-041, § 458-30-275, filed 9/24/02, effective 10/25/02. Statutory Authority: RCW 84.34.141, 01-24-030, § 458-30-275, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-275, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-275, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-275, filed 11/15/88.]

WAC 458-30-280 Notice to withdraw from classification. (1) **Introduction.** When an owner of classified land wishes to withdraw all or part of this land from the current use program, the owner must submit a request to withdraw classification to the assessor. This section explains when an owner may request a withdrawal from classification under the provisions of chapter 84.34 RCW and what the assessor must do upon receipt of this request.

(2) **Definition.** For purposes of this section, the following definition applies: "Withdrawal" or "withdrawn" occurs when the owner of land classified under the provisions on chapter 84.34 RCW has filed a notice of request to withdraw all or a portion of the land from classification. In order to qualify for withdrawal, the parcel(s) of land must have been classified for a minimum of ten years and the owner must have filed a notice of request to withdraw with the assessor at least two years prior to the assessment year when the parcel will be valued at the assessed value as determined in accordance with the county's approved revaluation cycle. Land is withdrawn from classified status by a voluntary act of the owner.

(3) **Requirements - ten years and notice of request for withdrawal.** Except as otherwise provided, land classified under the provisions of chapter 84.34 RCW shall remain classified and shall not be applied to any other use for at least ten assessment years from the effective date of classification.

(a) During the ninth or later assessment year of classification, the owner may file with the assessor a notice of request for withdrawal. The request for withdrawal may involve all or part of the land.

(b) Upon receiving the request for withdrawal, the assessor shall, within seven working days, transmit one copy of the request to the granting authority that approved the original application for classification.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-280, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-280, filed 11/15/88.]

WAC 458-30-285 Withdrawal from classification. (1) **Introduction.** RCW 84.34.070(1) states that once land has been classified under chapter 84.34 RCW, it must remain so classified for a minimum of ten years from the date of classification. The land will remain classified until and unless the owner submits to the assessor a notice of request for withdrawal of all or a portion of the land from classification. After a request to withdraw classification is received, the assessor is required to make a series of determinations. This rule explains the procedures the assessor must follow upon receipt of a request for withdrawal.

(2) **Withdrawal process.** Land classified under chapter 84.34 RCW must be applied to the classified use and remain in its classified status for at least ten years from the date of

classification. During the ninth or later year of classification, the owner may request to have all or a portion of the land withdrawn from the current use program. The owner must submit a written request to withdraw classification to the assessor of the county in which the land is located. The land will be withdrawn from classification two assessment years after the request to withdraw is received.

(a) A parcel of land may be withdrawn from classification in whole or in part. See RCW 84.34.070(1).

(b) The additional tax and interest imposed by RCW 84.34.108 are due when land is withdrawn from classification if the land has been classified under chapter 84.34 RCW for a minimum of ten assessment years. If a request to withdraw classification is received by the assessor's office and an intervening act causes the current use classification to be removed before the two assessment years have elapsed, the penalty described in RCW 84.34.108 (4)(c) is also due. However, if the removal is a result of one of the circumstances listed in RCW 84.34.108(6) no additional tax, interest, or penalty will be imposed. (See WAC 458-30-300.)

(c) Within seven days of receiving a notice to withdraw classification, the assessor forwards a copy of this notice to the legislative body that approved the initial application for classification.

(d) A request to withdraw classification may be revoked by the owner at any time before the land is actually withdrawn from classification.

(3) **Procedure for partial withdrawal.** RCW 84.34.-070 allows an owner to withdraw all or only a portion of the land from classification as long as the owner submits a notice of request for withdrawal two assessment years in advance of the effective date of the withdrawal. If only a portion of the classified land is to be withdrawn from classification, the remaining parcel must satisfy the same requirements the entire parcel was required to meet when the land was originally granted classification unless different criteria are required by statute. For example, if the owner of a thirty acre parcel of classified farm and agricultural land wishes to withdraw fifteen acres, the remaining fifteen acres must meet the income production requirements listed in RCW 84.34.020 (2)(b)(i) or (ii) to remain classified even though the thirty acre parcel was not required to meet any minimum income production requirements under RCW 84.34.020 (2)(a).

(a) The assessor may ask the owner of the parcel that will remain classified to submit information relevant to its continuing eligibility under chapter 84.34 RCW. See WAC 458-30-270 for more details for the types of information that may be requested.

(b) If the parcel is classified farm and agricultural land, the assessor will verify that the remaining portion meets the requirements of RCW 84.34.020(2).

(c) If the parcel is classified open space or timber land, the assessor will consult with the granting authority before determining whether the remaining portion meets the requirements of RCW 84.34.020 (1) or (3). The granting authority may ask the owner to submit any data that it considers necessary to assist it in making this determination.

(d) The assessor may segregate the portion of land from which classification is being withdrawn for valuation and taxation purposes.

(4) **Date of withdrawal and notice to owner.** RCW 84.34.070(1) requires the assessor to withdraw land from classification when two assessment years have elapsed following receipt of the owner's request to withdraw. In other words, land is withdrawn from classification as of January 1st of the third assessment year after the request to withdraw classification is received by the assessor's office.

(a) Method for counting assessment years. The year in which the request to withdraw is received counts as the first assessment year; the second assessment year begins on January 1 of the year immediately following the year in which the request is received; and the third assessment year begins on January 1 of the following year. (For example, if a request to withdraw classification is received on November 1, 1999, the first assessment year is 1999, the second assessment year is 2000, and the third assessment year is 2001. The land is withdrawn from classification as of January 1, 2001.)

(b) Notice to owner. No later than thirty days after withdrawing the land from classification, the assessor must notify the owner in writing that classification has been withdrawn.

(c) Valuation of land withdrawn from classification. When land has been withdrawn from classification, it shall be placed on the assessment roll at its true and fair value determined in accordance with the county's approved revaluation plan.

(d) Example. An application for classification as open space land was submitted in April 1990 and approved effective assessment year 1991. In 1999, the owner submits a notice of request to withdraw all the land from classification. The assessor withdraws the land from classification as of January 1, 2001, which is the third assessment year after the request to withdraw was received. This land is placed on the assessment roll at its true and fair value as of January 1, 2001, in accordance with the county's approved revaluation plan.

[Statutory Authority: RCW 84.34.141, 01-24-030, § 458-30-285, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 84.08.110, 84.08.-070, 84.34.141 and 84.34.360, 95-21-002, § 458-30-285, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070, 90-24-087, § 458-30-285, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW, 88-23-062 (Order PT 88-12), § 458-30-285, filed 11/15/88.]

WAC 458-30-295 Removal of classification. (1) Introduction. This rule discusses the circumstances that may cause land to be removed from classification and the actions an assessor takes to remove the land, in whole or in part, from classification under chapter 84.34 RCW.

(2) **General requirement - removal process.** If land classified under chapter 84.34 RCW is applied to a use other than the one for which classification is granted, the owner must notify the assessor of the change in use within sixty days of the change. If the new use of the land does not qualify for classification under chapter 84.34 RCW, the land must be removed from classification and, in most cases, additional tax, interest, and a penalty are imposed. Land may be totally or partially removed from classification depending on the reason(s) for the removal. See WAC 458-30-300 for details about the additional tax, interest, and penalty imposed when land is removed.

(3) **Circumstances that cause removal of land from classification.** When any of the following actions occur, the

assessor shall remove all or a portion of the land from classification:

(a) Receipt of a written notice from the owner directing the assessor to remove the land from classification;

(b) Sale or transfer of the land to an owner that makes the land exempt from property taxes, except a transfer resulting from a default in loan payments made to or secured by a governmental agency that intends to or is required by law or regulation to resell the land for the same use as before;

(c) Any change in use that occurs after a request to withdraw classification is made under RCW 84.34.070 and before the actual withdrawal of the classification occurs;

(d) Sale or transfer of classified land to a new owner who is required to pay property tax and who does not sign the notice of classification continuance, except a transfer to an owner who is an heir or devisee of a deceased owner;

(e) Failure of an owner to respond to a request from the assessor for data regarding the use of the land, productivity of typical crops, and similar information pertinent to continued classification and assessment of the land (see RCW 84.34.121 and WAC 458-30-270);

(f) The assessor denies an owner's request for reclassification and the land no longer meets the criteria under which it was originally classified; or

(g) The assessor determines, based on field inspections, analysis of income and expense data, or any other reasonable evidence, that the land no longer meets the criteria for classification under chapter 84.34 RCW.

(i) Example 1. During an on-site inspection, the assessor discovers that classified farm and agricultural land has been paved over and is used as a parking lot for school buses.

(ii) Example 2. Based on information released at a public meeting of the county planning commission, the assessor learns that an owner of classified timber land has harvested all timber from the land, the land has been platted, public services such as roads, sewers, and domestic water supply have been made available to the platted land, and houses have been built on the land. This information has led the assessor to conclude that the use of the land has changed or that the land no longer meets the criteria for classification as timber land.

(4) **Procedure when an assessor discovers a change in use.** If the assessor determines that the land is not being used for a classified use, the assessor must notify the owner in writing regarding this determination and may not remove the land from classification until the owner has had an opportunity to respond to the assessor's determination.

(a) The owner must respond, in writing, to the assessor's inquiry about the use of the classified land no later than thirty calendar days following the postmark date the assessor's inquiry was mailed to the owner.

(b) If the parcel in question is classified open space land or timber land, the assessor may ask, but is not required to ask, the granting authority to provide reasonable assistance in determining whether the classified land continues to meet the criteria for classification. The granting authority shall provide this assistance within thirty days of receiving the assessor's request for assistance (see RCW 84.34.108(1)).

(c) Unless the owner demonstrates to the assessor that the classified use of the land has not changed, the assessor will remove the land from classification and impose addi-

tional tax, interest, and penalty from the date of the change in use (see RCW 84.34.080 and 84.34.108).

(5) **Procedure for partial removal.** If the use of only a portion of the classified land has changed and it no longer qualifies for classification under chapter 84.34 RCW, the assessor will remove the nonqualifying portion of the classified land. The remaining parcel must satisfy the same requirements the entire parcel was required to meet when the land was originally granted classification unless different criteria are required by statute because of the reduced size of the land that remains classified.

(a) The assessor may ask the owner of the parcel that will remain classified to submit information relevant to its continuing eligibility under chapter 84.34 RCW. See WAC 458-30-270 for more details.

(b) If the parcel is classified farm and agricultural land, the assessor will verify that the remaining portion meets the requirements of RCW 84.34.020(2).

(c) If the parcel is classified open space or timber land, the assessor will consult with the granting authority before determining whether the remaining portion meets the requirements of RCW 84.34.020 (1) or (3). The granting authority and assessor may ask the owner to submit pertinent data for this determination.

(d) The assessor may segregate the portion of land from which classification is being removed for valuation and taxation purposes.

(6) **Transactions that do not cause land to be removed from classification.** Land cannot be removed from classification solely because of:

(a) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120; or

(b) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040.

(7) **Notice to owner.** Within thirty days of the removal of land from classification, the assessor must notify the owner in writing of the reason(s) for removal.

(8) **Right of appeal.** The seller, transferor, or owner of classified land may appeal the removal from classification to the board of equalization of the county in which the land is located. The appeal must be filed within thirty calendar days (or up to sixty days if such a time limit has been adopted by the county legislative authority) of the date the notice of removal was mailed by the assessor or given to the owner, or on or before July 1st of the year of removal, whichever is later (RCW 84.40.038).

(9) **Assessor's duty after removal.** Unless the removal is reversed on appeal, the assessor places the land on the assessment roll at its true and fair value determined in accordance with the county's approved revaluation plan. The value on the date of removal is the true and fair value as of January 1st of the year of removal. The assessment roll lists both the assessed value of the land before and after the removal of classification. Taxes for the current tax year are prorated according to the portion of the year to which each assessed value applies.

(10) **Possible segregation after removal.** If only a portion of the land is being removed from classification, the assessor must segregate the affected portion for valuation and tax purposes.

(11) **Additional tax, interest, and penalty are due when land is removed.** The additional tax, interest, and penalty imposed by RCW 84.34.080 and 84.34.108 are due when land is removed from classification unless the removal is the result of one of the exempt circumstances or transactions listed in RCW 84.34.108(6). (See WAC 458-30-300.)

[Statutory Authority: RCW 84.34.141. 01-24-030, § 458-30-295, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-295, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-295, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-295, filed 11/15/88.]

WAC 458-30-300 Additional tax—Withdrawal or removal from classification. (1) Introduction.

This rule outlines the withdrawal and removal procedures, events that trigger removal, and how to calculate the additional property tax ("additional tax"), interest, and penalty that may be imposed because land is withdrawn or removed from classification. When land is withdrawn or removed additional tax and interest are due. A twenty percent penalty is also due when land is removed from classification (see RCW 84.34.108 and 84.34.070(2)).

(2) Duties of assessor and treasurer. As soon as possible after determining that the land no longer qualifies for classification under chapter 84.34 RCW or the use of the land has changed, the assessor must notify the owner in writing regarding this determination and of his or her intent to remove the land from classification. The assessor may not remove the land from classification until the owner has had an opportunity to be heard on the issue of removal.

(a) The owner has thirty calendar days following the postmark date on the assessor's notice of intent to remove to respond, in writing, to the assessor about the removal of the land from classification. After giving the owner an opportunity to be heard and unless sufficient information or evidence is presented as to why the land should not be removed from classified status, the land will be removed from classification as of the date the land no longer qualified for classification or the use of the land changed.

(b) Within thirty days of removing land from classification, the assessor notifies the owner, in writing, about the reasons for the removal. The owner, seller, or transferor may appeal the removal to the county board of equalization.

(c) Unless the removal is reversed on appeal, the assessor revalues the affected land with reference to its true and fair value on the date of removal from classification. The assessment roll will list the assessed value of the land before and after the removal from classification. Taxes will be allocated to the part of the year to which each assessed value applies; that is, current use and true and fair value.

(d) The assessor computes the amount of additional tax, interest, and penalty, unless the removal is the result of one of the circumstances listed in subsection (5) of this rule.

(e) The assessor notifies the treasurer of the amount of additional tax, interest, and penalty due.

(f) The treasurer mails or gives the owner written notice about the amount of the additional tax, interest, and, if required, penalty due and the date on which the total amount must be paid.

(g) The total amount is due and payable to the treasurer thirty days after the owner is notified of the amount of additional tax, interest, and penalty due.

(3) Amount of additional tax, interest, and penalty. The amount of additional tax, interest, and penalty will be determined as follows:

(a) The amount of additional tax is equal to the difference between the property tax paid on the land because of its classified status and the property tax that would have been paid on the land based on its true and fair value for the seven tax years preceding the withdrawal or removal. And in the case of a removal, the taxes owed for the balance of the current tax year;

(b) The amount of interest, calculated at the same statutory rate charged on delinquent property taxes specified in RCW 84.56.020, is based upon the amount of additional tax determined under (a) of this subsection, starting from the date the additional tax could have been paid without interest until the date the tax is paid; and

(c) A penalty amounting to twenty percent of the additional tax and interest; that is, twenty percent of the total amount computed in (a) and (b) of this subsection. A penalty is not imposed when:

(i) The land has been classified for at least ten years at the time it is withdrawn from classification and the owner submitted a request to withdraw classification to the assessor at least two assessment years prior to the date the land is withdrawn from classification; or

(ii) The use of the land has changed and the change in use was the result of one of the circumstances listed in RCW 84.34.108(6). See subsection (5) of this rule for a detailed list of these circumstances.

(4) **Failure to sign notice of continuance.** Land will be removed from current use classification if a new owner fails to sign the notice of continuance when the classified land is sold or transferred. Additional tax, interest, and penalty will be imposed in accordance with RCW 84.34.108(4) because of this removal. A notice of continuance is not required when classified land is transferred to a new owner who is the heir or devisee of a deceased owner and the new owner wishes to continue classified use (see RCW 84.34.108 (1)(c)). If the heir or devisee elects not to continue classified use, the land will be removed from classification and additional tax, interest, and penalty are due.

(5) **Exceptions.** No additional tax, interest, or penalty will be imposed if the withdrawal or removal from classification was the result of one or more of the following circumstances:

(a) Transfer to a governmental entity in exchange for other land located within the state of Washington;

(b) A taking through the exercise of the power of eminent domain or the sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of this power. This entity must have declared its intent to exercise the power of eminent domain in writing or by some other official action;

(c) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than an act of the landowner changing the use of the property;

(d) Official action by an agency of the state of Washington or by the county or city in which the land is located disal-

lowing the current use of classified land. For the purposes of this rule, "official action" includes: City ordinances, zoning restrictions, Growth Management Act, Shoreline Management Act, and Environmental Policy Act;

(e) Transfer of land to a church when the land would qualify for a property tax exemption under RCW 84.36.020. Only the land that would qualify for exemption under RCW 84.36.020 is included within this exception. Additional tax, interest, and, if appropriate, the penalty will be assessed upon the remainder of the land withdrawn or removed from classification;

(f) Acquisition of property interests by public agencies or private organizations qualified under RCW 84.34.210 or 64.04.130 for the conservation purposes specified therein. See subsection (6) of this rule for a listing of these agencies, organizations, and purposes. However, when the property interests are no longer used for one of the purposes enumerated in RCW 84.34.210 or 64.04.130, additional tax, interest, and penalty will be imposed on the owner of the property at that time;

(g) Removal of land granted classification as farm and agricultural land under RCW 84.34.020 (2)(d) because the principal residence of the farm operator or owner and/or housing for farm and agricultural employees was situated on it. This exception applies only to the land upon which the housing is located even if this portion of the agricultural enterprise has not been allocated a separate parcel number for assessment and tax purposes;

(h) Removal of classification after a statutory exemption is enacted that would exempt the land from property tax and the landowner submits a written request to the assessor to remove the land from classification. This exception applies only to newly enacted exemptions that would cause classified land to go from taxable to exempt status. For example, in 1999 the legislature created a new property tax exemption for property used for agricultural research and education programs. Subsequently, the owner of such land requests removal of the land from classification, no additional tax, interest or penalty are imposed because of this new property tax exemption authorized by RCW 84.36.570.

(i) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(j) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040;

(k) The sale or transfer of land within two years of the death of an owner who held at least a fifty percent interest in the land if:

(i) The individual(s) or entity(ies) who received the land from the deceased owner is selling or transferring the land; and

(ii) The land has been continuously assessed and valued as classified or designated forest land under chapter 84.33 RCW or classified under chapter 84.34 RCW since 1993. The date of death shown on the death certificate begins the two-year period for sale or transfer;

(l) The sale or transfer of classified land between July 22, 2001, and July 22, 2003, if:

(i) An owner who held at least a fifty percent interest in the land died after January 1, 1991;

(ii) The individual(s) or entity(ies) who received the land from the deceased owner is selling or transferring the land; and

(iii) The land has been continuously assessed and valued as classified or designated forest land under chapter 84.33 RCW or classified under chapter 84.34 RCW since 1993. The date of death shown on the death certificate is the date used to determine the deceased owner's date of death; or

(m) The result of one of the following changes in classification because of the owner's request:

(i) Reclassification from farm and agricultural land under RCW 84.34.020(2) to: Timber land under RCW 84.34.020(3), open space land under RCW 84.34.020(1), or forest land under chapter 84.33 RCW;

(ii) Reclassification from timber land under RCW 84.34.020(3) to: Farm and agricultural land under RCW 84.34.020(2), open space land under RCW 84.34.020(1), or forest land under chapter 84.33 RCW;

(iii) Reclassification from open space/farm and agricultural conservation land under RCW 84.34.020 (1)(c) to farm and agricultural land under RCW 84.34.020(2) if the land was previously classified as farm and agricultural land; or

(iv) Reclassification from forest land under chapter 84.33 RCW to open space land under RCW 84.34.020(1).

(6) Land acquired by agencies or organizations qualified under RCW 84.34.210 or 64.04.130. If the purpose for acquiring classified land is to protect, preserve, maintain, improve, restore, limit the future use of, or conserve the land for public use or enjoyment and the classified land is acquired by any of the following entities, no additional tax, interest, or penalty will be imposed as long as the property is used for one of these purposes:

- (a) State agency;
- (b) Federal agency;
- (c) County;
- (d) City;
- (e) Town;
- (f) Metropolitan park district (see RCW 35.61.010);
- (g) Metropolitan municipal corporation (see RCW 35.58.020);
- (h) Nonprofit historic preservation corporation as defined in RCW 64.04.130; or
- (i) Nonprofit nature conservancy corporation or association as defined in RCW 84.34.250.

(7) Removal of classification from land that was previously classified or designated forest land under chapter 84.33 RCW. Land that was previously classified or designated as forest land under chapter 84.33 RCW may be reclassified under chapter 84.34 RCW at the request of the land owner. If such land is subsequently removed from the current use program before the land has been classified under chapter 84.34 RCW for at least ten assessment years, a combination of compensating tax imposed under chapter 84.33 RCW and additional tax, interest, and penalty imposed under chapter 84.34 RCW is due. RCW 84.33.145 explains the way in which these taxes are to be calculated.

[Statutory Authority: RCW 84.34.141. 01-24-030, § 458-30-300, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 84.08.110, 84.08.-070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-300, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-300, filed 12/5/90, effective 1/5/91. Statutory Authority:

(2007 Ed.)

RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-300, filed 11/15/88.]

WAC 458-30-305 Due date of additional tax, interest, and penalty upon withdrawal or removal. (1) **Introduction.** This rule specifies the date upon which the additional tax, interest, and, if appropriate, penalty are due when land is withdrawn or removed from classification under chapter 84.34 RCW. This rule also explains the consequences of failure to timely pay these charges.

(2) **General rule - payable within thirty days of removal or withdrawal.** No later than thirty days after the date the treasurer mails or gives the owner written notice that the land will be removed from classification with the amount of additional tax, interest, and penalty due, the total amount owing must be paid, except in the case of a sale or transfer. The notice must list the amount of additional tax, interest, and penalty owed, as well as the date on which the total amount must be paid.

(3) **Exception to general rule - payable on date of sale or transfer.** If classified land is to be removed because of a sale or transfer, additional tax, interest, and penalty, if owed, must be paid at the time of sale or transfer.

(4) **Failure to timely pay - delinquency.** Any additional tax, interest, or penalty that is unpaid on its due date is delinquent. Interest is charged on the total amount due at the same rate that is applied by law to delinquent property taxes (see RCW 84.56.020). Interest accrues from the date of the delinquency until the date the total amount is paid in full.

(5) **Additional tax, interest, and penalty constitute a lien.** When land is withdrawn or removed from classification, the amount of additional tax, interest, and penalty becomes a lien on the land that attaches on the date of withdrawal or removal.

(a) This lien has priority to and must be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable.

(b) The lien may be foreclosed at the same time and in the same manner as liens for delinquent real property taxes are foreclosed under RCW 84.64.050.

[Statutory Authority: RCW 84.34.141. 01-24-030, § 458-30-305, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 84.08.110, 84.08.-070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-305, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-305, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-305, filed 11/15/88.]

WAC 458-30-310 County recording authority—County financial authority—Duties. (1) **Introduction.** This rule explains the conditions under which documents conveying ownership of land classified under chapter 84.34 RCW will be accepted by the county recording authority. It also describes the duties of the treasurer in the withdrawal and removal processes.

(2) **County recording authority—Limited documents may be accepted.** The county recording authority, usually the auditor, will not record any instrument of conveyance involving land classified under chapter 84.34 RCW unless:

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(a) Any required additional tax, interest, and penalty has been paid to the treasurer and the treasurer has affixed a stamp on the REET affidavit showing this payment;

(b) The notice of continuance on or attached to the REET affidavit is signed by the new owner or transferee, the assessor agrees that the land should remain classified, and the assessor checks the box on the REET affidavit that the land qualifies for continued classified current use status; or

(c) The land is to be removed from classification because of one of the exceptions listed in RCW 84.34.108(6) and is exempt from additional tax, interest, and penalty.

(3) **Treasurer's duties.** The treasurer has a number of responsibilities relative to land classified under chapter 84.34 RCW and to land that is to be withdrawn or removed from classification.

(a) **Withdrawal.** Upon receipt of a request for withdrawal from classification, the assessor prepares a statement listing the amount of additional tax and interest due as a result of the withdrawal, the date on which this sum must be paid, and the effective date of the withdrawal. The assessor sends a copy of this statement to the treasurer's office. The treasurer's office collects the total amount of additional tax and interest listed on the date specified.

(b) **Removal.** As soon as possible after determining that land must be removed from classification, the assessor prepares a notice of removal of classification and statement containing additional tax, interest, and penalty calculations. This notice and statement lists the reason(s) for removing the land from classification and the assessor's calculations of the total amount of additional tax, interest, and penalty due. The assessor sends or gives a copy of this notice and statement to the treasurer's office and to the taxpayer. The treasurer's office collects the total amount due on the date specified.

(c) **Collection and distribution.** The additional tax, interest, and, if any, penalty imposed under RCW 84.34.080 or 84.34.108 must be paid in full to the treasurer's office thirty days after the date the statement was mailed to the owner. When classified land is sold or transferred and real estate excise tax must be paid, the treasurer will affix a stamp on the REET affidavit as proof that the REET and additional tax, interest, and if any, penalty have been paid so the conveyance may be recorded. The additional tax collected is distributed to taxing districts in the same manner as current taxes applicable to the land are distributed. The treasurer distributes the interest and penalty collected to the county's current expense fund.

(d) The treasurer treats any additional tax, interest, and penalty not paid on the due date as delinquent property taxes.

[Statutory Authority: RCW 84.34.141, 01-24-030, § 458-30-310, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 84.08.110, 84.08.-070, 84.34.141 and 84.34.360, 95-21-002, § 458-30-310, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070, 90-24-087, § 458-30-310, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW, 88-23-062 (Order PT 88-12), § 458-30-310, filed 11/15/88.]

WAC 458-30-317 Principal residence of farm operator or housing for farm and agricultural employees. (1) Introduction. Under RCW 84.34.020 (2)(d) the land on which the principal residence of the farm operator or owner of farm and agricultural land is situated and the housing for

farm and agricultural employees is situated may be classified as farm and agricultural land.

This section explains the criteria that must be met to include this type of residence or employee housing within the farm and agricultural land classification and the procedure used to value a classified residence or housing.

(2) **Definitions.** For purposes of this section, the following definitions apply:

(a) "Farm employee or farm and agricultural employee" means an individual who is employed on farm and agricultural land on a full-time basis or a seasonal or migratory worker who works on farm and agricultural land only during the planting, growing, and/or harvesting seasons.

(i) For purposes of this section, "full-time basis" refers to an individual who is employed at least twenty-five hours per week on farm and agricultural land.

(ii) The term does not include a person who is employed full time by a business activity that is not conducted on classified farm and agricultural land and who only works occasional weekends or during the harvest season on classified farm and agricultural land.

For example, housing occupied by a person who works full time at a foundry and who works on a farm only two weeks per year helping with the wheat harvest should not be granted classification.

(b) "Integral" means that which is central to or inherent in the use or operation of classified farm and agricultural land for commercial agricultural purposes. For purposes of this section, the residence of the farm operator or owner and/or housing for farm employees must be the place(s) from which the farmer conducts his commercial agricultural business.

(c) "True and fair value" means the value of a parcel of land placed on the assessment rolls at its highest and best use without regard to its current use value. The term also refers to market value; that is, the amount of money a buyer willing but not obligated to buy would pay to a seller willing but not obligated to sell for the real property.

(3) **Requirements for classification.** The land on which the principal residence of a farm operator or the owner of land is situated and the housing for farm or agricultural employees is situated may be classified as farm and agricultural land if it meets the following conditions:

(a) The land on which the residence or housing stands is twenty or more acres or multiple parcels that are contiguous and total twenty or more acres; and

(i) Primarily used to produce livestock or agricultural products for commercial purposes; or

(ii) Enrolled in the federal Conservation Reserve Program or its successor administered by the United States Department of Agriculture; and

(b) The use of the residence or housing is integral to the use of the classified land for commercial agricultural purposes.

(4) **Examples.**

(a) On a parcel of land twenty acres or more, there are two dwellings: One is the principal residence of the farm operator or owner of classified farm and agricultural land and the second is inhabited by the owner's son who is employed full time at a foundry in town and works on the farm only during harvest time. The land on which the principal residence is situated may be classified as farm and agricultural land if the

use of the dwelling is integral to the use of the classified land. The land on which the second home is situated may not be included within the farm and agricultural land classification because it is not inhabited by a farm employee as defined in subsection (2) of this section.

(b) On a parcel of land twenty acres or more, there are two dwellings: One is the principal residence of the farm operator or owner of farm and agricultural land and the second is inhabited by seasonal farm workers who work on the farm only during harvest time. The land on which both dwellings are situated may be classified as farm and agricultural land if the use of the dwellings are integral to the use of the classified land.

(c) On a parcel of classified land that is twenty acres, there is one dwelling. This dwelling is occupied by the owner of the classified land but the owner does not run the farm. The farm is leased to a cooperative that conducts the commercial agricultural activities of the farm from central administrative headquarters that are not located on the classified land. The land on which this dwelling stands may not be classified as farm and agricultural land because the use of the dwelling is not integral to the commercial agricultural purposes of the farm.

(5) Valuation.

(a) The land. The land on which the principal residence of a farm operator or owner of farm and agricultural land or the housing for farm and agricultural employees is situated shall be valued in the following manner:

(i) The prior's year average value of classified farm and agricultural land in the county; plus

(ii) The value of land improvements used to serve the residence or housing, such as sewer, water, and power.

(iii) If the use of the residence or housing for employees is not integral to the farming operation, the land on which the residence or housing stands shall be valued at its true and fair value in accordance with WAC 458-12-301.

(b) The principal residence or housing for employees. The building(s) used by the farm operator or owner as his or her principal residence and building(s) used to provide shelter to farm and agricultural employees shall be valued at its true and fair value in accordance with WAC 458-12-301.

(c) Excluded structures. The land on which storeyards, barns, machine sheds, and similar type structures are located shall not be considered as part of the principal residence of the farm operator or owner nor housing for farm and agricultural employees. However, the land upon which these structures stand may be classified as farm and agricultural land generally.

(6) **Withdrawal or removal.** Additional tax, interest, and penalty, if owed, are not imposed if farm and agricultural land classified under RCW 84.34.020 (2)(d) is withdrawn or removed from classification.

(7) **Effect of 1992 legislation on county revaluation cycle.** Land on which the farm owner's or operator's residence is located and land on which the housing for farm and agricultural employees is located shall be revalued in accordance with the 1992 legislative changes, described in subsection (5) of this section, only in the assessment year when the land is being revalued in accordance with the county's revaluation cycle.

(2007 Ed.)

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-317, filed 10/4/95, effective 11/4/95.]

WAC 458-30-320 Assessment and tax rolls. (1) Introduction. This section explains the manner in which land classified under chapter 84.34 RCW is to be listed on the assessment and tax rolls.

(2) **Listing of current use land.** When land has been classified under chapter 84.34 RCW, the assessor shall annually enter on the assessment and tax rolls, the current use value and the true and fair value of that land. The assessor shall provide notice of these values to the county financial authority who shall list these values in the place and manner provided for public recording of tax liens on real property.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-320, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-320, filed 11/15/88.]

WAC 458-30-325 Transfers between classifications—Application for reclassification. (1) Introduction. This rule discusses the process used when land is reclassified into a different classification under chapter 84.34 or 84.33 RCW.

(2) **General information - when reclassification is required.** In 1992, the legislature created an opportunity for owners of classified land to change the classification under which their land is classified under chapter 84.34 RCW or designated under chapter 84.33 RCW. The name given to this process is "reclassification." It is now possible to switch between the different classifications of chapter 84.34 RCW and forest land under chapter 84.33 RCW. The following circumstances may cause an owner of classified land to seek reclassification:

(a) The classified land is no longer being used for the purpose for which it was granted classification;

(b) The owner or new owner of classified land has decided to change the use of classified land;

(c) The classified land no longer meets the requirements of the classification under which it was originally classified; for example, farm and agricultural land that no longer produces the minimum income required by RCW 84.34.020 (2)(b) and (c) must either be reclassified or removed from the current use program;

(d) The new owner is an heir or devisee of a deceased owner who held classified land and the new owner either does not choose to meet or cannot meet the requirements of the classification under which the land was originally classified; or

(e) The assessor has determined the classified land is no longer eligible under the existing classification and the land must either be reclassified or removed from the current use program.

(3) **Reclassification process if land is subject to removal.** Within thirty days of receiving notice from the assessor that classified land is to be removed from the current use program, the owner must submit an application for reclassification into another classification under chapter 84.34 or 84.33 RCW if the owner elects to have the land remain classified. The removal notice must include a statement informing the owner of the classified land about the

[Title 458 WAC—p. 495]

reclassification option. If an application for reclassification is submitted within thirty days, the land is not removed from classification until the application for reclassification is approved or denied.

(4) Reclassification process if an owner seeks change of classification. An owner of classified land may seek to have the land reclassified under a different current use classification under chapter 84.34 RCW or may seek designation as forest land under chapter 84.33 RCW.

(a) If an owner elects to have land reclassified, the owner must submit an application for reclassification to the assessor of the county in which the land is located. This application form will be prepared by the department and supplied to assessors or it may be obtained on the internet at <http://dor.wa.gov/index.asp> under property tax, "forms."

(b) Within seven days of receiving this request, the assessor must forward a copy of the application for reclassification to the appropriate granting authority (see the definition of "granting authority" in WAC 458-30-200 for more details). The assessor retains a copy of all applications for reclassification.

(c) When an application for reclassification is submitted, the classified status of the land is not changed until the application is approved or denied.

(5) Application procedure. An application for reclassification is processed in the same manner as an initial application for classification, which may include payment of an application fee if the county requires one. All classification requirements of RCW 84.34.035 for farm and agricultural land, RCW 84.34.037 for open space land, RCW 84.34.041 for timber land, and chapter 84.33 RCW for forest land must be satisfied in order to reclassify land. (These requirements are also described in WAC 458-30-225, 458-30-230, 458-30-232, 458-30-242, and chapter 458-40 WAC.)

(a) The granting authority must process an application for reclassification in the same manner as it processes an initial application for classification under chapter 84.34 RCW or for designation as forest land under chapter 84.33 RCW.

(b) A timber management plan must be filed with the county legislative authority within sixty days of the date the application for reclassification under this chapter or from designated forest land under chapter 84.33 RCW is received. The application for reclassification will be accepted, but may not be processed until this plan is received.

(i) If this plan is not received within sixty days of the date the application for reclassification is received, the application will be denied.

(ii) If circumstances require it, the assessor may allow an extension of time for submitting a timber management plan when an application for reclassification is received. The applicant will be notified of this extension in writing. When the assessor extends the filing deadline for this plan, the county legislative authority should delay processing the application until the plan is received. If the timber management plan is not received by the date set by the assessor, the application for reclassification will be automatically denied.

(c) An application for reclassification may be approved or denied, in whole or in part.

(i) The granting authority must notify the applicant in writing of the extent to which the application for reclassification is approved or denied.

(ii) The applicant has the same appeal rights in relation to a denial of an application for reclassification as the applicant has in regard to an initial application for classification.

(iii) If an application for reclassification is denied, the assessor removes the land from classification and calculates additional tax, interest, and penalty in accordance with RCW 84.34.108.

(6) Reclassifications exempt from additional tax. No additional tax, interest, or penalty are due when reclassification is a result of any of the following transfers between classifications:

(a) Reclassification from farm and agricultural land under RCW 84.34.020(2) to: Timber land under RCW 84.34.020(3), open space land under RCW 84.34.020(1), or forest land under chapter 84.33 RCW;

(b) Reclassification from timber land under RCW 84.34.020(3) to: Farm and agricultural land under RCW 84.34.020(2), open space land under RCW 84.34.020(1), or forest land under chapter 84.33 RCW;

(c) Reclassification from open space/farm and agricultural conservation land under RCW 84.34.020 (1)(c) to farm and agricultural land under RCW 84.34.020(2) if the land was previously classified as farm and agricultural land; or

(d) Reclassification from forest land under chapter 84.33 RCW to open space land under RCW 84.34.020(1).

(7) Income production requirements of land to be reclassified. The income production requirements relating to the following reclassifications may be deferred for a period of up to five years from the effective date of reclassification when:

(a) Land classified as open space/farm and agricultural conservation land under RCW 84.34.020 (1)(c) or timber land under RCW 84.34.020(3) is reclassified as farm and agricultural land under RCW 84.34.020 (2)(b) or (c); or

(b) Land designated as forest land under chapter 84.33 RCW is reclassified as farm and agricultural land under RCW 84.34.020 (2)(b) or (c).

(8) Valuation of reclassified land. The value of reclassified land will be based on the new classification as of January 1 of the assessment year following approval of the request for reclassification. For example, if an application for reclassification from farm and agricultural land to open space/farm and agricultural conservation land is submitted on February 15, 1999, and approved effective June 1, 1999, the land will be valued and assessed as open space/farm and agricultural conservation land on January 1, 2000, and the owner is required to pay taxes on this new assessed value in 2001.

[Statutory Authority: RCW 84.34.141, 84.34.020, and 84.34.030. 02-20-041, § 458-30-325, filed 9/24/02, effective 10/25/02. Statutory Authority: RCW 84.34.141. 01-24-030, § 458-30-325, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-325, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-325, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-325, filed 11/15/88.]

WAC 458-30-330 Open space plan and public benefit rating system—Authorization and procedure to establish—Adoption—Notice to owner—Valuation. (1) **Introduction.** RCW 84.34.055 enables a county legislative authority to establish an open space plan, public benefit rat-

ing system, and valuation schedule for land classified as open space. This section explains the factors that must be considered when such a plan and rating system are established, includes a nonexclusive list of recognized sources used in determining open space priorities, and outlines the actions required after and effects of the approval of an open space plan and public benefit rating system.

(2) **General authorization.** The county legislative authority may direct the county planning commission to set open space priorities and to adopt, following a public hearing, an open space plan and a public benefit rating system (rating system) for the county. As used in this section, "planning commission" means the county office, commission, or department that is responsible for making planning decisions at the county level. The open space plan must include, but is not limited to, the following:

- (a) Criteria to determine the eligibility of land;
- (b) A process to establish a rating system; and
- (c) An assessed valuation schedule developed by the assessor. This schedule is a percentage reduction of true and fair value based on the rating system.

(3) **A public hearing is required.** At least one public hearing must be held before an open space plan, a public benefit rating system, or an assessed valuation schedule may be approved by the county legislative authority.

(4) **What criteria are used to determine eligibility?** Within the rating system the county legislative authority must include the criteria and elements contained in RCW 84.34.020 (1)(a). This authority, which approves or denies applications for the classification and reclassification of land as open space, must consider the criteria when it makes its determination.

(a) The rating system must provide a method to rank or rate classified open space land.

(b) The legislative authority must give priority consideration to lands used for buffers planted with or primarily containing native vegetation no later than July 1, 2006, unless buffers of this nature already receive priority consideration in an existing open space plan, rating system, and assessed valuation schedule.

(c) "Priority consideration" as used in this section, may include, but is not limited to, establishing classification eligibility, maintenance criteria, or a rating system for buffers with native vegetation.

(5) **How is an open space plan and rating system developed?** The county planning commission must take all reasonable steps to determine open space priorities or use recognized sources for this purpose, or both.

(a) Recognized sources of open space priorities include, but are not limited to:

- (i) The natural heritage data base;
- (ii) The state office of historic preservation;
- (iii) The interagency committee for outdoor recreation inventory of dry accretion beach and shoreline features;
- (iv) The state, national, county, and/or state registers of historic places;
- (v) The shoreline master program; or
- (vi) Studies conducted by the parks and recreation commission and by the departments of fisheries, natural resources, and wildlife.

(b) Particular features and sites may be verified by an outside expert in the field and approved by the appropriate state or local agency. This verification is to be sent to the county legislative authority for final approval for inclusion in the open space plan.

(6) **How is an owner of classified open space land notified about the adoption of an open space plan, rating system, and valuation schedule? Can an owner choose not to participate and request removal from the current use program?** Once the county legislative authority adopts an open space plan, rating system, and assessed valuation schedule, the planning commission or other designated agent of the legislative authority must assign a recommended number of priority rating points to all land classified as open space using the adopted rating system. The planning commission or agent will forward this recommendation to the county legislative authority for approval. After the number of priority rating points are assigned and approved, this information will be sent to the assessor. The assessor will determine the new assessed value of the classified open space land based on the number of priority rating points assigned and the adopted assessed valuation schedule. Thereafter, the assessor must notify all owners of such land of the new assessed value of their land in the manner provided in RCW 84.40.045.

(a) Within thirty days of receipt of this notice of the new assessed value, the owner may request that the parcel(s) of land be removed from the open space classification without payment of additional tax, interest, or penalty.

(b) If previously classified open space land does not qualify for classification under the newly adopted open space plan and rating system, the assessor is not to remove the land from the open space classification. This land will retain its status as classified open space land. The assessor will determine the value of this land using the new priority rating system and valuation schedule.

(7) **How does a rating system affect assessed value of classified open space land?** The assessed value of properties classified as open space is determined by a formula using a priority rating system typically consisting of "points." A county generally establishes a list of priority resources based on the definition of open space in RCW 84.34.020(1); these are also known as "open space priorities." Each priority resource is assigned a specific point or number of points. The more priority points the land is entitled to, the larger the reduction in true and fair value.

(a) A parcel of classified open space land may contain a number of priority resources. In such cases, the open space plan and rating system may allow the parcel to receive multiple priority points based on the number of priority resources. This would entitle the parcel to a larger reduction in assessed value.

(b) The priority rating system takes into consideration established priority resources, public access, and/or conservation or historic easements.

(c) **Example.** Let's assume a wetland was designated as a priority resource in the adopted open space plan. A wetland entitles the land to receive three priority points. Each point may represent a ten percent reduction in assessed value (one point equals a ten percent reduction, two points equals a twenty percent reduction, and so on). A parcel with a priority

rating of three points would be entitled to a thirty percent reduction in assessed value.

[Statutory Authority: RCW 84.34.141, 06-18-011, § 458-30-330, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360, 95-21-002, § 458-30-330, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW, 88-23-062 (Order PT 88-12), § 458-30-330, filed 11/15/88.]

WAC 458-30-345 Advisory committee. (1) **Introduction.** This section explains how the advisory committee mandated by RCW 84.34.145 is formed, the type of advice this committee may give the assessor, and the consequences of not forming this committee.

(2) **Formation.** The county legislative authority shall appoint a five-member advisory committee representing the active farming community to advise the assessor in implementing assessment guidelines as established by the department for open space, farm and agricultural, and timber land classified under the provisions of chapter 84.34 RCW, unless the county legislative authority finds insufficient interest by the farming community in the formation of such a committee.

(a) The committee shall elect officers and adopt operating procedures.

(b) All meetings and records shall be open to the public according to chapters 42.30 and 42.17 RCW.

(c) Upon appointment, each member of the advisory committee shall serve a one-year term.

(d) Members may be removed from the advisory committee by majority vote of the county legislative authority.

(3) **Type of advice.** The advisory committee shall not give advice regarding the valuation or assessment of specific parcels of land. However, it may supply the assessor with advice on typical crops, land quality, and net cash rental assessments to assist the assessor in determining appropriate values.

(4) **Failure to appoint advisory committee.** Failure of the county legislative authority to appoint an advisory committee shall not invalidate the listing of property on the assessment or the tax rolls.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360, 95-21-002, § 458-30-345, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070, 90-24-087, § 458-30-345, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW, 88-23-062 (Order PT 88-12), § 458-30-345, filed 11/15/88.]

WAC 458-30-355 Agreement may be abrogated by legislature. (1) **Introduction.** This section explains that the agreement to tax according to current use is a noncontractual agreement that may be annulled or cancelled at any time by the legislature.

(2) **No contractual obligation.** The agreement to tax land according to its current use is not a contract between the owner and any other party. This agreement can be abrogated, annulled, or cancelled at any time by the legislature in which event no additional tax, interest, and/or penalty shall be imposed. In other words, if the changes made to the Open Space Taxation Act or chapter 84.34 RCW by the legislature cause classified land to be removed from classification, the owner of the land shall not be required to pay the additional tax, interest, or penalty that is generally imposed when land is removed from classification.

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(a) Example 1. The legislature eliminates the timber land classification from chapter 84.34 RCW. All land classified as timber land shall be removed from classification and no additional tax, interest, or penalty will be imposed because the legislature caused the removal of the land when it eliminated the timber land classification from the Open Space Taxation Act.

(b) Example 2. The legislature amends RCW 84.34.020(2) so that only parcels of twenty acres or more may be granted classified status as farm and agricultural land. All parcels of classified farm and agricultural land that are less than twenty acres in size may be removed from classification and no owner of such land may be required to pay any additional tax, interest, or penalty because the legislature's action caused the removal of the land.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360, 95-21-002, § 458-30-355, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW, 88-23-062 (Order PT 88-12), § 458-30-355, filed 11/15/88.]

WAC 458-30-500 Definitions of terms used in WAC 458-30-500 through 458-30-590. (1) **Introduction.** This rule sets forth the definitions to be used in administering and understanding the statutes and rules relating to special benefit assessments on classified farm and agricultural and timber land.

(2) **Definitions.** For the purposes of WAC 458-30-500 through 458-30-590, unless otherwise required by the context, the following definitions apply:

(a) "Average rate of inflation" means the annual rate of inflation adopted each year by the department of revenue in accordance with WAC 458-30-580 averaged over the period of time provided in WAC 458-30-550 and 458-30-570.

(b) "Connection charge" or "charge for connection" means the charge required to be paid to the district for connection to the service as opposed to the assessment based upon the benefits derived.

(c) "District" means any local improvement district, utility local improvement district, local utility district, road improvement district, or any similar unit created by a local government for the purpose of levying special benefit assessments against property specially benefited by improvements relating to the districts.

(d) "Farm and agricultural land" means land classified under the provisions of RCW 84.34.020(2); in other words, one of the following:

(i) Any parcel of land twenty or more acres in size or multiple parcels of land that are contiguous and total twenty or more acres in size when the land is:

(A) Primarily used to produce livestock or agricultural products for commercial purposes;

(B) Enrolled in the federal Conservation Reserve Program or its successor administered by the United States Department of Agriculture; or

(C) Primarily used in similar commercial agricultural activities as may be established by rule.

(ii) Any parcel of land or contiguous parcels of land at least five acres, but less than twenty acres, in size that is primarily used for commercial agricultural purposes, and produces a gross income each year equal to:

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(A) One hundred dollars or more in cash per acre per year for three of the five calendar years preceding the date of application for classification when the application was made prior to January 1, 1993; or

(B) Two hundred dollars or more in cash per acre per year for three of the five calendar years preceding the date of application for classification when the application is made on or after January 1, 1993.

(iii) Any parcel of land or contiguous parcels of land less than five acres in size that is primarily used for commercial agricultural purposes, and produces a gross income each year equal to:

(A) One thousand dollars or more in cash per year for three of the five calendar years preceding the date of application for classification when the application was made prior to January 1, 1993; and

(B) One thousand five hundred dollars or more in cash per year for three of the five calendar years preceding the date of application for classification when the application is made on or after January 1, 1993.

(iv) Any parcel of land that is twenty or more acres in size or multiple parcels of land that are contiguous and total twenty or more acres in size on which housing for farm and agricultural employees and the principal residence of the farm operator or the owner of land classified under RCW 84.34.020 (2)(a) is situated if:

(A) The housing or residence is on or contiguous to the classified parcel; and

(B) The use of the housing or the residence is integral to the use of the classified parcel for agricultural purposes.

(e) "Final assessment roll" means a final special benefit assessment roll approved or confirmed by local government for the purpose of levying special benefit assessments against property specially benefited by a sanitary and/or storm sewerage system, domestic water supply and/or distribution system, or road construction and/or improvement.

(f) "Local government" means any city, town, county, water-sewer district, public utility district, port district, irrigation district, flood control district, or any other municipal corporation, quasi-municipal corporation, or other political subdivision authorized to levy special benefit assessments for sanitary and/or storm sewerage systems, domestic water supply and/or distribution systems, or road construction and/or improvement purposes.

(g) "Owner" means:

(i) Any person(s) having the fee interest in land; or

(ii) The contract vendee when the land is subject to a real estate contract.

(h) "Removal" or "removed" means land classified under chapter 84.34 RCW is removed from classification by the assessor because the owner requests removal, the new owner fails to sign notice of classification continuance, or the land is no longer being used for the purpose for which classification was granted.

(i) "Special benefits assessments" means special assessments levied or capable of being levied in any local improvement district or otherwise levied or capable of being levied by a local government to pay for all or part of the costs of a local improvement and that may be levied only for the special benefits to be realized by property because of the local improvement.

(j) "Timber land" means land classified under the provisions of RCW 84.34.020(3); in other words, any parcel of land five or more acres in size or multiple parcels of land that are contiguous and total five or more acres in size that is primarily used to commercially grow and harvest forest crops. "Timber land" refers only to the land.

(k) "Withdrawal" or "withdrawn" means action taken by the owner of land classified under chapter 84.34 RCW by filing a notice of request to withdraw the land from classification under the current use program in compliance with RCW 84.34.070. Once land has been classified under chapter 84.34 RCW, it must remain so classified for at least ten years from the date of classification. At any time after eight years of the initial ten-year classification period have elapsed, the owner may file a notice of request to withdraw all or a portion of the land from classification with the assessor of the county in which the land is located. Land is withdrawn from classification as a result of a voluntary act by the owner.

[Statutory Authority: RCW 84.34.141, 84.34.020, and 84.34.030. 02-20-041, § 458-30-500, filed 9/24/02, effective 10/25/02. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-500, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.34.360. 87-07-009 (Order PT 87-3), § 458-30-500, filed 3/10/87.]

WAC 458-30-510 Creation of district—Protest—Adoption of final assessment roll. (1) Introduction. RCW 84.34.320 requires local government officials to take certain steps upon "creation" of a district and upon adoption or confirmation of a final assessment roll. This section defines when a district shall be deemed to have been "created" and when a final assessment shall be deemed "adopted" or "confirmed."

(2) **Exemption from special benefit assessments.** Any farm and agricultural or timber land classified in accordance with the provisions of chapter 84.34 RCW shall be exempt from special benefit assessments or charges in lieu of assessment for such purposes as long as the classified land remains in classification if the legislative authority of a local government adopts a resolution, ordinance, or legislative act:

(a) To create a local improvement district in which the classified land is included or would have been included but for the classification designation; or

(b) To approve or confirm a final specific benefit assessment roll that would have included the classified land but for the classification designation relating to a:

(i) Sanitary and/or storm sewerage system;

(ii) Domestic water supply and/or distribution system; or

(iii) Road construction and/or improvement.

(3) **When a district is deemed to be created.**

(a) For districts outside of cities, a district shall be considered created upon its actual adoption at the required public hearing.

(b) For districts within cities, creation shall occur thirty days after passage of the ordinance ordering the improvement, thereby allowing the protest period set forth in RCW 35.43.180.

(4) **Protest the formation of a district.**

(a) For districts within cities, a protest may be filed with the city or town council within thirty days of the date the ordinance ordering the improvement is passed. Creation of a district can be prevented by the property owners within the dis-

tract whose combined payments for said improvement(s) are equal to, or in excess of, sixty percent of the cost of the improvement.

(b) For all other districts, their creation can be prevented by the property owners within those districts whose combined property ownership is equal to, or greater than, forty percent of the area to be included in the district.

(5) **Final assessment roll.** For those districts that have an annual assessment roll hearing on capital assessments, the final assessment roll will be considered as "adopted" upon confirmation of the roll at the hearing in the first year.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-510, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-510, filed 11/15/88. Statutory Authority: RCW 84.34.360. 87-07-009 (Order PT 87-3), § 458-30-510, filed 3/10/87.]

WAC 458-30-520 Notification of district—Certification by assessor—Estimate by district. (1) **Introduction.** This section explains the procedures that follow the creation of a district.

(2) **Notice to assessor and legislative authority.** Upon creation of a district, the local government shall immediately notify the assessor and legislative authority of the county where the district is located of its creation.

(3) **Assessor duties.** Upon receipt of notification that a district has been created, the assessor shall certify in writing to the district whether or not classified farm and agricultural or timber land is within its boundaries.

(a) If there is any classified farm and agricultural or timber land within the district boundaries, the assessor shall certify what land is within its boundaries by providing parcel numbers and legal descriptions of the property.

(b) If any owner of land within the created district has timely filed, as of January 1st, an application for current use classification or reclassification as farm and agricultural or timber land and no action has been taken, the assessor will report the status of the pending application(s) to the district. The assessor shall take immediate action to render a decision for the approval or denial of this application. The assessor shall also inform the district that any decision regarding classification or reclassification is appealable under RCW 84.34.035 and that the classification or reclassification as farm and agricultural or timber land would become effective as of the initial filing date, January 1.

(c) If the legislature extends the filing date for applying for classification or reclassification as farm and agricultural or timber land beyond December 31, those applications approved will receive their status as of January 1 of the filing year.

(4) **District duties.** The district, upon receipt of the assessor's certification required by subsection (3) of this section, shall notify the assessor and the legislative authority of the extent to which classified lands may be subject to a partial assessment for connection to the service provided by the improvement(s). Said estimate will be based upon WAC 458-30-560.

(5) **If land is removed from classification.** The assessor shall notify the district when any farm and agricultural or timber land is removed from current use classification.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-520, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-520, filed 11/15/88. Statutory Authority: RCW 84.34.360. 87-07-009 (Order PT 87-3), § 458-30-520, filed 3/10/87.]

WAC 458-30-525 Notification of final assessment roll. (1) **Introduction.** This section explains the procedures outlined in RCW 84.34.320 that follow the adoption or confirmation of a final special benefit assessment roll.

(2) **Notice to assessor, legislative authority, and treasurer required.** When a local government approves or confirms a final assessment roll, it shall file a notice of this action with the assessor, legislative authority, and treasurer of the county in which classified farm and agricultural or timber land is located. This notice shall describe:

- (a) The action taken;
- (b) The type of improvement involved;
- (c) The land exempted from special benefit assessments; and
- (d) The amount of special benefit assessments that would be levied against the land if the land was not exempt.

(3) **Effect of notice.** If local government has filed a notice signifying the adoption of a final assessment roll with the assessor and treasurer of the county in which land exempt from special benefits is located, the notice shall serve as constructive notice to a purchaser or encumbrancer of the affected land and to any person who subsequently executes or records a conveyance or encumbrance that the land is subject to special benefits assessment when the farm and agricultural or timber land is removed or withdrawn from its current use classification.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-525, filed 10/4/95, effective 11/4/95.]

WAC 458-30-530 Notification of owner regarding creation of district. (1) **Introduction.** This section explains the assessor's duty to notify an owner of classified farm and agricultural or timber land when a local improvement district is created.

(2) **Assessor to notify owner.** The assessor, upon receiving notice that a district was created, shall notify the owner of the farm and agricultural or timber lands as shown on the current assessment rolls of this fact. This notification shall be made on forms approved by the department of revenue and shall contain the following:

- (a) Notice of the creation of the local improvement district;
- (b) Notice of the exemption of classified farm and agricultural or timber land from special benefit assessments;
- (c) Notice that the farm and agricultural or timber land will become subject to the special benefit assessments if the owner waives the exemption by filing a notarized document with the governing body of the local government creating the district before the final special benefit assessment roll is confirmed;
- (d) Notice of potential liability if the exemption is not waived and the land is subsequently withdrawn or removed from the farm and agricultural or timber land classification;
- (e) The portion of the land measured as the benefited "residence" as provided in WAC 458-30-560 will be assessed for benefits received;

(f) That connection to the system shall result in a connection charge; and

(g) That connection to the system subsequent to the creation of the district and the initial final assessment will result in being liable for the amounts as calculated in WAC 458-30-570.

(3) **Owner's right to appeal.** The property owner shall have the same right of appeal that is guaranteed to any other property owner within the district.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-530, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-530, filed 11/15/88. Statutory Authority: RCW 84.34.360. 87-07-009 (Order PT 87-3), § 458-30-530, filed 3/10/87.]

WAC 458-30-540 Waiver of exemption. (1) **Introduction.** This section explains the owner's right to waive the exemption relating to special benefit assessments as set forth in RCW 84.34.320.

(2) **Owner may waive exemption.** The owner of land exempted from special benefit assessments may waive this exemption by filing a notarized statement to that effect with the legislative authority of the local government creating the district after receiving notice from local government concerning the assessment roll hearing. This statement must be filed before the local government confirms the final special benefit assessment roll.

(3) **Copy of waiver to assessor.** A copy of this waiver shall be filed by the local government with the assessor and the county legislative authority, but the failure to file this document shall not affect the waiver.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-540, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-540, filed 11/15/88. Statutory Authority: RCW 84.34.360. 87-07-009 (Order PT 87-3), § 458-30-540, filed 3/10/87.]

WAC 458-30-550 Exemption—Removal or withdrawal. (1) **Introduction.** This section explains the process that must be followed when classified land subject to a special benefit assessment is withdrawn or removed from the farm and agricultural classification.

(2) **General treatment of land.** After the creation of a district or the adoption and confirmation of a final assessment roll, an owner of classified farm and agricultural or timber land who wishes it to be exempt from special benefit assessments is not required to take any further action. The land will retain its classified status; it will not be connected to the improvement(s) or be listed on the final assessment roll.

(3) **Subsequent withdrawal or removal.** If the owner initially chose to remain exempt, but subsequently is removed or withdrawn from the farm and agricultural or timber land classification, the owner shall become liable to pay for the special benefit assessment in the following manner:

(a) If the bonds used to fund the improvement have not been completely retired when the land is withdrawn or removed from classification, the liability will be:

(i) The amount of the special benefit assessment listed in the notice provided for in RCW 84.34.320 and;

(ii) Interest on that amount, compounded annually at a rate equal to the average rate of inflation from the time the initial notice is filed by the governmental entity creating the

district to the time the land is withdrawn or removed from exempt status; or

(b) If the bonds used to fund the improvement in the district have been completely retired when the land is withdrawn or removed from classification, immediate payment shall be due for:

(i) The amount of the special benefit assessment listed in the notice provided for in RCW 84.34.320;

(ii) Interest on that amount compounded annually at a rate equal to the average rate of inflation from the time the initial notice is filed to the time the bonds used to fund the improvement were retired, and;

(iii) Interest on the total amount of (i) and (ii) at a simple per annum rate equal to the average rate of inflation from the time the bonds used to fund the improvement were retired to the time the land is withdrawn or removed from exempt status.

(4) **Withdrawal or removal of land with partial assessment.** If land is withdrawn or removed from classification and a partial special benefit assessment has been paid because the classified land was connected to a domestic water system, sewerage facility, or road improvement, the amount of partial assessment paid shall be credited against the total amount due for special benefit assessments.

(5) **Due date of special benefit assessment upon withdrawal or removal.** When land is to be withdrawn or removed from farm and agricultural or timber land classification and an amount of special benefit assessments is due, the amount of special benefit assessments shall be due on the date the land is withdrawn or removed from its classification. This amount shall be a lien on the land prior and superior to any other lien whatsoever except for general taxes and shall be enforceable in the same manner as special benefit assessments are collected by local government.

(6) **Notice of withdrawal or removal to local government and land owner.** When farm and agricultural or timber land is withdrawn or removed from classification, the assessor of the county in which the land is located shall send a written notice of the withdrawal or removal to the local government, or its successor, that filed the original notice regarding creation of a district with the assessor. After receiving this notice, the local government shall mail a written statement setting forth the amount of special benefit assessments due to the owner of the farm and agricultural or timber land withdrawn or removed from classification. This amount shall be delinquent if it is not paid within one hundred eighty days of the date the statement is mailed and is subject to the same interest, penalties, lien, priority, and enforcement procedures that are applicable to delinquent assessments on the final assessment roll from which the land was exempted, except the rate of interest charged shall not exceed the rate provided in RCW 84.34.330.

(7) **Partial withdrawal or removal of land exempt from special benefit assessments.** If a portion of classified farm and agricultural or timber land exempt from special benefit assessments is withdrawn or removed from classification, the previously exempt benefit assessments shall be due only on the portion of the land being withdrawn or removed.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-550, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062

(Order PT 88-12), § 458-30-550, filed 11/15/88. Statutory Authority: RCW 84.34.360, 87-07-009 (Order PT 87-3), § 458-30-550, filed 3/10/87.]

WAC 458-30-560 Partial special benefit assessment—Computation. (1) **Introduction.** When classified farm and agricultural or timber land is connected to a domestic water system, sewerage facilities, or road improvements, a partial special benefit assessment will be made. This section explains the manner in which this partial assessment is calculated.

(2) **General obligation.** A portion of the exempt classified farm and agricultural land shall be subject to special benefit assessment if it is actually connected to the domestic water system or sewerage facilities, or for access to a road improvement.

(3) **Amount of partial assessment.** The amount of special benefit assessment shall be calculated by the method used in the district to assess nonexempt property. If a district uses more than one method to calculate the assessment, it shall use the one that results in the least cost to the property owner, regardless of the owner's property holdings and/or exempt status. The district shall provide the owner of the property with a written estimate of the partial assessment as determined from the following methods:

(a) For assessments relating to sanitary and/or storm sewerage service or domestic water service one of the following methods shall be used:

(i) **Square foot method:** If the special benefit assessment is determined on a square footage basis, the assessable portion of the exempt land shall be determined as follows:

(A) Calculate the square footage of the residential area, i.e., the "main dwelling."

(B) This area shall include all those facilities normally found on a residential lot such as a garage or carport, driveway, front and back yards, etc. Also included in the area shall be any buildings or facilities directly benefited by an actual connection to the improvement. (For example: A dairy barn connected to a sewer or water system.)

(ii) **Front foot method:** If the special benefit assessment is determined on a front footage basis, the assessable portion of the exempt land shall be determined by one of the following:

(A) Calculate the square footage for the residential area in the same manner as the square foot method. The square foot measurement of the entire "residence," shall then be converted into the area of a square. The calculated square will be used as the unit to be charged for the special benefit assessment. One side of the square will be used as front footage; or

(B) Determine the mean (average) front footage of all nonexempt properties within the district, and use it to assess the portion of otherwise exempt property for the special benefit assessment, i.e., add all of the nonexempt front footage relevant to the improvement and divide by the number of nonexempt properties within the district.

(iii) **Zone-termini method:** If the special benefit assessment is determined on a zone-termini basis, the assessable portion of the exempt land shall be determined by one of the following:

(A) Convert the square foot area of the residence to a square as in the front foot method. Use this square as the zone

for assessing the portion of otherwise exempt property for the special benefit assessment; or

(B) Calculate the mean (average) width and depth (length) of all nonexempt properties within the district, using these averages to create a rectangular unit as the zone for assessing the portion of otherwise exempt property for the special benefit assessment. To perform this calculation:

(I) Add all nonexempt front footage relevant to the improvement and divide by the number of nonexempt properties within the district to determine the mean width of the zone; and

(II) Add the depths (lengths) of all nonexempt properties within the district and divide by the number of nonexempt properties within the district to determine the mean depth of the zone.

(iv) **Equivalent residential unit method (ERU):** The ERU method shall be used in the same manner as it is used on all other properties within the district. The value to be determined is based on the amount of benefit derived or, when appropriate, the degree of contribution to the service, such as drainage or sewer. This amount shall be measured for all uses of property. (For example, if a dairy barn uses a greater amount of water or contributes a greater amount of sewerage than the normal residential unit, it shall be classified as more than one ERU and shall be charged a proportionately greater amount.)

(v) **Combined methods:** In districts making assessments using a combination of two or more methods (e.g., an assessment based on a front footage charge plus a square foot charge), the procedures for determining the assessable portion of previously exempt property shall be the same as those described above.

(b) For assessments relating to road construction and/or improvements. If the property is provided access to a constructed or improved road, the assessment will be based upon the percentage of current use value to true and fair value as evidenced by the last property tax assessment roll as equalized by the county board of equalization to what the assessment would have been if the owner had waived the exemption. (For example, if the current use value is forty-five percent of its true and fair value, then the assessable portion is forty-five percent of the amount the assessment would have been if the owner had waived the exemption.)

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360, 95-21-002, § 458-30-560, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-560, filed 11/15/88. Statutory Authority: RCW 84.34.360, 87-07-009 (Order PT 87-3), § 458-30-560, filed 3/10/87.]

WAC 458-30-570 Connection subsequent to final assessment roll—Interest—Connection charge. (1) **Introduction.** If classified farm and agricultural or timber land is connected to water and/or sewer systems or road improvements after the final assessment roll has been approved, the owner of this land will be liable for the special benefit assessments relating to the improvements. This section explains how the assessments are calculated and the costs associated with the services.

(2) **Connection to local improvements after final assessment roll.** The owner of property exempted from special benefit assessments under the current use farm and agri-

cultural or timber land classification who connects to the sanitary and/or sewerage systems, domestic water supply and/or distribution systems, or road construction and/or improvements provided by the district after the final assessment roll has been approved will be liable for the special benefit assessments as determined by WAC 458-30-560 including interest. In addition, the annual payment required for each year following the connection shall be due and payable.

(3) **Cost of connection.** In addition to the charges imposed in subsection (2) of this section, the owner will also be liable for the cost of connection.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-570, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-570, filed 11/15/88. Statutory Authority: RCW 84.34.360, 87-07-009 (Order PT 87-3), § 458-30-570, filed 3/10/87.]

WAC 458-30-590 Rate of inflation—Publication—Interest rate—Calculation. (1) **Introduction.** This section sets forth the rates of inflation discussed in WAC 458-30-550. It also explains the department of revenue's obligation to annually publish a rate of inflation and the manner in which this rate is determined.

(2) **General duty of department—Basis for inflation rate.** Each year the department determines and publishes a rule establishing an annual rate of inflation. This rate of inflation is used in computing the interest that is assessed when farm and agricultural or timber land, which are exempt from special benefit assessments, is withdrawn or removed from current use classification.

(a) The rate of inflation is based upon the implicit price deflator for personal consumption expenditures calculated by the United States Department of Commerce. This rate is used to calculate the rate of interest collected on exempt special benefit assessments.

(b) The rate is published by December 31st of each year and applies to all withdrawals or removals from farm and agricultural or timber land classification that occur the following year.

(3) **Assessment of rate of interest.** An owner of classified farm and agricultural or timber land is liable for interest on the exempt special benefit assessment. Interest accrues from the date the local improvement district is created until the land is withdrawn or removed from classification. Interest accrues and is assessed in accordance with WAC 458-30-550.

(a) Interest is assessed only for the time (years and months) the land remains classified under RCW 84.34.020 (2) or (3).

(b) If the classified land is exempt from the special benefit assessment for more than one year, the annual inflation rates are used to calculate an average rate of interest. This average is determined by adding the inflation rate for each year the classified land was exempt from the special benefit assessment after the local improvement district was created. The sum of the inflation rates is then divided by the number of years involved to determine the applicable rate of interest.

(c) **Example.** A local improvement district for a domestic water supply system was created in January 1990 and the owner used the statutory exemption provided in RCW 84.34.320. On July 1, 1997, the land was removed from the

farm and agricultural classification. An average interest rate was calculated using the inflation rates for 1990 through 1997. The owner was then notified of the amount of previously exempt special benefit assessment, plus the average interest rate.

(4) **Rates of inflation.** The rates of inflation used to calculate the interest as required by WAC 458-30-550 are as follows:

YEAR	PERCENT	YEAR	PERCENT
1976	5.6	1977	6.5
1978	7.6	1979	11.3
1980	13.5	1981	10.3
1982	6.2	1983	3.2
1984	4.3	1985	3.5
1986	1.9	1987	3.7
1988	4.1	1989	4.8
1990	5.4	1991	4.2
1992	3.3	1993	2.7
1994	2.2	1995	2.3
1996	2.2	1997	2.1
1998	0.85	1999	1.42
2000	2.61	2001	1.89
2002	1.16	2003	1.84
2004	2.39	2005	2.54
2006	3.42		

[Statutory Authority: RCW 84.34.360 and 84.34.310. 07-01-012, § 458-30-590, filed 12/7/06, effective 1/1/07; 05-24-119, § 458-30-590, filed 12/7/05, effective 1/1/06; 05-01-052, § 458-30-590, filed 12/7/04, effective 1/1/05; 03-24-076, § 458-30-590, filed 12/2/03, effective 1/2/04; 02-24-058, § 458-30-590, filed 12/3/02, effective 1/3/03; 02-03-041, § 458-30-590, filed 1/8/02, effective 2/8/02; 00-24-107, § 458-30-590, filed 12/6/00, effective 1/1/01; 99-24-035, § 458-30-590, filed 11/23/99, effective 12/24/99; 99-01-068, § 458-30-590, filed 12/14/98, effective 1/1/99; 98-01-179, § 458-30-590, filed 12/23/97, effective 1/1/98; 97-02-067, § 458-30-590, filed 12/31/96, effective 1/1/97; 96-01-094, § 458-30-590, filed 12/19/95, effective 1/1/96; 95-06-043, § 458-30-590, filed 2/24/95, effective 3/27/95. Statutory Authority: RCW 84.34.360. 94-11-098, § 458-30-590, filed 5/17/94, effective 6/17/94; 92-22-061, § 458-30-590, filed 10/29/92, effective 11/29/92. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-590, filed 12/5/90, effective 1/5/91. Statutory Authority: Chapter 84.34 RCW and RCW 84.34.360. 89-05-010 (Order PT 89-3), § 458-30-590, filed 2/8/89. Statutory Authority: RCW 84.34.360. 88-07-004 (Order PT 88-4), § 458-30-590, filed 3/3/88; 87-07-009 (Order PT 87-3), § 458-30-590, filed 3/10/87.]

WAC 458-30-700 Designated forest land—Removal—Change in status—Compensating tax. (1) **Introduction.** This rule describes what events trigger the removal of land from designated forest land status under chapter 84.33 RCW, the procedures followed for removal, and the resulting compensating tax.

(2) **Events triggering the removal of designated forest land status.** The assessor must remove forest land from its designated forest land status when:

(a) The owner submits a written request to remove the owner's land from designated forest land status;

(b) The owner sells or transfers the land to an individual or entity exempt from property tax because of that individual's or entity's ownership;

(c) The assessor determines that the land is no longer primarily devoted to and used for growing and harvesting timber;

(d) The owner has failed to comply with a final administrative or judicial order made because of the violation of the restocking, forest management, fire protection, insect and disease control and forest debris provisions of Title 76 RCW or the rules that implement Title 76 RCW;

(e) Restocking has not occurred to the extent or within the time specified in the application for designation of the land; or

(f) The owner sells or transfers forest land to a new owner who has not signed a notice of continuance, except when the new owner is the heir or devisee of a deceased owner. RCW 84.33.140(5).

(3) How to retain designated forest land status when the land is sold or transferred. When designated forest land is sold or transferred, the new owner may retain designated forest land status by filing a signed notice of continuance with the deed. The notice of continuance may be signed as part of the real estate excise tax (REET) affidavit or as a separate form if the county has decided it will require owners to submit both the REET affidavit and an attached separate notice of continuance. If multiple owners own the land, all owners or their agent(s) must sign the notice of continuance. A notice of continuance is not required for a new owner to retain designated forest land status when the new owner inherits the property.

(a) The owner may obtain the notice of continuance form and a real estate excise tax (REET) affidavit from the county. The county assessor's office has the notice of continuance form and the county treasurer's office has the REET affidavit.

The notice of continuance may also be obtained on the internet at <http://dor.wa.gov> under property tax, "forms."

(b) After the new owner signs the notice of continuance as part of the REET affidavit and, if required, the separate notice, the REET affidavit and notice must be submitted to the assessor for approval. The assessor may also require the owner to submit a timber management plan before approving the notice of continuance.

(i) The assessor signs the REET affidavit and indicates whether the land will or will not qualify to continue as designated forest land.

(ii) An assessor signs the REET affidavit and approves the land for continued classification if:

(A) The owner provides a complete and accurate notice of continuance signed by the new owner demonstrating that the forest land will continue to qualify as designated forest land; and

(B) At the assessor's option, the new owner provides a timber management plan for the property.

(iii) The assessor is allowed up to fifteen days to confirm that the information upon the notice is complete and accurate. The assessor may use this time to confirm that the timber management plan provides:

(A) The correct legal description for the forest land;

(B) The new owner's statement that the forest land is owned by the same person, consists of twenty or more contiguous acres, and is primarily devoted to and used to grow and harvest timber;

(C) A statement about whether the land is used to graze livestock;

(D) A brief description of the timber stands located on the land;

(E) A statement about whether the land has been used in compliance with the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW; and

(F) If the land has been recently harvested or supports a growth of brush and noncommercial type timber, a description of the owner's plan to restock the forest land within three years.

A timber management plan may contain, but is not required to contain, any other information that the harvester needs for its own business purposes (i.e., a statement of goals for managing the land or identifying resource protection areas on the land (like riparian buffer areas along a stream or an unstable slope) that limit harvesting activities).

(iv) If the assessor determines that the notice of continuance or the timber management plan is not accurate or complete, the owner may resubmit the corrected information to the assessor.

(v) If the assessor determines that the land does not qualify to continue as designated forest land, the assessor removes the land upon the date of the conveyance and provides the owner with a notice of removal containing reason(s) for the removal and the amount of compensating taxes owed.

(c) Once the assessor signs the notice of continuance as part of the REET affidavit and the separate notice of continuance, if required, the notice(s) are then submitted to the treasurer. Before the treasurer can stamp the REET affidavit as approved for recording, the treasurer collects any REET due because of the transfer, and collects all compensating tax if the land does not qualify for continuance as designated forest land because it was denied continuance by the assessor. The county recording clerk must not accept any deeds or other transfer documents unless the treasurer has stamped the REET affidavit.

(d) A notice of continuance is not required when the transfer of the forest land is to a new owner who is an heir or devisee, however, the new owner must continue to meet the requirements of designated forest land to avoid removal from designation. The treasurer determines that a transfer is by inheritance because the claim for the inheritance exemption is filled out on the REET affidavit with supporting documentation. The treasurer should notify the assessor when forest land has been transferred by inheritance without a notice of continuance.

(4) Assessor decisions and procedures. Before removing the land from its designated forest land status, the assessor follows certain procedures and takes into account circumstances that may delay or prevent removal.

(a) The assessor must determine:

(i) The actual area of land to be removed from forest land status;

(ii) Whether the land has been exempted from an unre-tired special benefit assessment;

(iii) The true and fair value of the area being removed as of January 1st of the year of removal from designation;

(iv) Forest land value for the area to be removed;

(v) The last levy rate that applied for that area; and

(vi) The amount of time the land has been designated and classified as forest land, including the number of days up to the date of removal for the current year of removal.

(b) The assessor may require the owner to provide a legal description of the land area intended for removal when the landowner requests removal of owner's land from designated forest land status.

(c) The remaining land outside of the affected removal area continues to be designated as forest land if the owner retains twenty or more contiguous acres primarily devoted to and used for growing and harvesting timber. If the remaining land fails to meet the forest land definition because there are less than twenty contiguous acres primarily devoted to and used for growing and harvesting timber, the owner may request reclassification as timber land under the open space program in chapter 84.34 RCW.

(d) The assessor must provide the owner with a written notice and an opportunity to be heard by the assessor, or the assessor's deputy, when the assessor intends to remove the land because it is no longer primarily devoted to and used for growing and harvesting timber. RCW 84.33.140 (5)(d). Each county assessor may set his or her own procedure for giving a landowner this notice and opportunity to be heard so long as it is done in a reasonable and consistent manner that ensures due process for each owner.

(e) An assessor may not remove forest land merely because an owner subdivides the land into separate parcels, if contiguous parcels of the subdivided land still add up to at least twenty contiguous acres, remain in the same ownership, and continue to be primarily devoted to and used for growing and harvesting timber. An assessor may ask an owner of designated forest land if the use of the land has changed when the owner subdivides a tract of designated forest land into separate parcels.

(f) If the assessor determines the land is no longer primarily devoted to and used for growing and harvesting timber, but there is a pending acquisition by an entity that would qualify for exemption from compensating tax under subsection (6)(e) of this rule, the assessor must not remove the land from its designated forest land status. RCW 84.33.140 (5)(d)(i). In order to prevent removal, the government entity or other qualified recipient must provide written proof to the assessor of its intent to acquire the land or documentation that demonstrates the transaction will qualify for an exemption from compensating tax under subsection (6)(e) of this rule. The entity acquiring the land must provide this written proof within sixty days of a request by the assessor. Thereafter, once a year, the governmental entity or other recipient must provide the assessor of the county in which the land is located written evidence of its intent to acquire the land. This written evidence must be provided on or before December 31st of each year or at an earlier date if the assessor makes a written request for such information. RCW 84.33.140 (5)(d)(i). Upon the assessor's written request, the information must be provided within sixty days from the date the assessor mails or hands the request to the owner or the postmark date of the request, if later.

(g) The assessor must not remove forest land from its designation if a governmental restriction is imposed on the land that prohibits, in whole or in part, the harvesting of timber.

(i) If only a portion of the forest land is impacted by the governmental restriction, the assessor cannot use the restric-

tion as a basis to remove the remainder of the land from its designated forest land status.

(ii) A governmental restriction includes:

(A) Any law, regulation, rule, ordinance, program, or other action adopted or taken by a federal, state, county, city, or other governmental entity; or

(B) The land's zoning or its presence within an urban growth area designated under RCW 36.70A.110.

(5) **Removal proceedings.** After determining that a triggering event causing removal has occurred, the assessor must provide timely written notice(s) to the taxpayer. RCW 84.33.140 (5)(d) (written notice and opportunity to be heard), RCW 84.33.140(9) (notice of removal). Upon receiving the notice of removal, the landowner may appeal the removal or apply for reclassification of the land to the open space program under chapter 84.34 RCW. If the owner chooses to appeal the removal, the appeal must be filed within thirty days of the postmark date for the notice or by July 1st of the year of removal, whichever is later. If the owner chooses to apply for reclassification, they must do so within thirty days of the postmark date of the notice.

(a) **When does the land get removed from the designated forest land status?** If the removal is a result of a sale or transfer, the assessor removes the land on the date of sale or transfer provided in the legal conveyance. If the removal is based upon a determination made about the land by the assessor or at the request of the owner, the assessor removes the land on the date shown on the notice of removal mailed to the owner.

(b) **Notice of removal.** The assessor uses the notice of removal to notify the owner that the land has been removed from designated forest land status. Within thirty days of removing land from designated forest land status, the assessor must mail a notice of removal to the owner with the reasons for the removal. The owner, seller, or transferor may appeal the removal to the county board of equalization.

(i) If the property is being removed because the assessor has determined the land is no longer primarily devoted to and used for growing and harvesting timber, the assessor provides two notices. First, the assessor must notify the taxpayer of his or her intent to remove the property and give the owner an opportunity to be heard. The assessor may require the owner to provide pertinent information about the land and its use in the response to the assessor's first notice. When the assessor determines that the property still does not qualify as designated forest land after the first notice is sent, the assessor mails the owner the second notice, the notice of removal, but only after:

(A) The owner declines the opportunity to be heard;

(B) The owner fails to timely respond to the first notice;

or

(C) The assessor has received and considered the owner's timely response to the notice of intent to remove and nevertheless concludes that the property is no longer primarily devoted to growing and harvesting timber.

(ii) If the removal is based upon an owner's request for removal, upon receipt of a request for removal from an owner, the assessor sends the notice of removal to the owner showing the compensating tax and recording fee due.

(iii) The notice provides the reason(s) for removing the land from designation and the date of the removal. RCW

84.33.140(9). The notice includes the compensating tax calculated in rule section (6) and the necessary recording fees to be paid. It also includes the due date for payment, along with the landowner's rights to appeal the removal or the true and fair value at the time of removal, and the owner's right to apply for the land to be reclassified under chapter 84.34 RCW. The county must use the notice of removal form prepared by the department.

(iv) The assessor must also provide written notice of the removal to any local government filing a notice regarding a special benefit assessment under RCW 84.33.210 within a reasonable time after the assessor's decision to remove the land. The assessor may provide a simple statement with the legal description of the land, the name of the landowner, and the date of removal, if he or she includes a copy of the notice sent to the landowner. RCW 84.33.230.

(c) What happens when an owner chooses to appeal the removal? Unless the removal is reversed upon appeal, the assessor continues the process to remove the property from designated forest land status. The assessor may choose to delay collection of the compensating tax and recording fee until the appeal is decided. However, if the assessor postpones the collection of the compensating tax and recording fee, the assessor must notify the treasurer to temporarily delay collection. The assessor must also notify the owner that if the determination to remove is upheld, then interest will be due from the date the compensating tax and recording fee were due.

(i) If the removal is reversed upon appeal, the assessor shall reinstate the land as designated forest land, discharge any lien placed against the land, revise any assessments made against the property during the interim, refund the recording fee paid, and refund or cancel any compensating taxes and interest paid or owing.

(ii) If the removal is upheld upon an appeal in which the assessor has delayed collection, the compensating tax and recording fee are due immediately with interest accrued from the date the tax and fee were originally due. Upon receiving notice of the decision upholding the removal, the assessor must immediately notify the treasurer to collect any unpaid compensating taxes, fees, and interest on the land.

(d) What happens when an owner applies to have the land reclassified under chapter 84.34 RCW? If an application for reclassification is submitted by the owner within thirty days after the notice of removal has been mailed, the forest land is not removed from classification until the application for reclassification under chapter 84.34 RCW is denied or later removed from classification under RCW 84.34.108. RCW 84.33.145(1).

(i) The assessor processes an application for reclassification in the same manner as it processes an initial application for classification under chapter 84.34 RCW.

(ii) A timber management plan must be filed with the county legislative authority within sixty days of the date the application for reclassification under this chapter or from designated forestland under chapter 84.33 RCW is received. The application for reclassification will be accepted, but may not be processed until this plan is received.

(A) If this plan is not received within sixty days of the date the application for reclassification is received, the application will be denied.

(B) If circumstances require it, the assessor may allow an extension of time for submitting a timber management plan when an application for reclassification is received. The applicant will be notified of this extension in writing. When the assessor extends the filing deadline for this plan, the county legislative authority may delay processing the application until the plan is received. If the timber management plan is not received by the date set by the assessor, the application for reclassification will be automatically denied.

(iii) When the owner sells or transfers land (or a portion of the land) while an application for reclassification is pending, an assessor may accept a notice of continuation, and allow the owner to revise the application for reclassification to reflect the name of the new owner of the property.

(iv) If the application for reclassification under chapter 84.34 RCW is approved, the assessor shall transfer the property to its new classification.

(v) If the application for reclassification under chapter 84.34 RCW is denied, the assessor must record the removal notice and inform the treasurer's office to immediately begin collection of the compensating tax and the recording fee.

(6) Compensating tax. Compensating tax is imposed when land is removed from its forest land status. This tax recaptures taxes that would have been paid on the land if it had been assessed and taxed at its true and fair value instead of the forest land value.

(a) Calculating the compensating tax. The assessor uses the current year's levy rate, the forest land value, and the true and fair value for the area to be removed from forest land status to calculate the compensating tax. The compensating tax consists of two parts: The recapture of taxes for previous years that the land was classified or designated as forest land, up to a maximum of nine years; and the recapture of taxes for the portion of the current year up to the date of removal in the year the land is removed from designation. RCW 84.33.140(11).

(i) The compensating tax for the previous years is calculated by determining the difference between the amount of taxes assessed at the forest land value for the removal area and the amount of taxes that would have been paid if the land had been valued at its true and fair value in the year of removal. That difference is multiplied by the number of years the land was classified or designated as forest land up to a maximum of nine years.

(ii) The compensating tax for the portion of the year of removal from January 1st to the date of removal is calculated by determining the difference between the amount of taxes assessed at the forest land value and the taxes that would have been paid if the land had been valued at its true and fair value for the portion of the year up to the removal date.

(b) Formulas for calculating taxes after removal:

(i) Calculation of prior year's compensating tax:

True and Fair Value of Land (Jan 1st of year removed)	Less	Forest Land Value at time of removal	Multiplied by	Last levy Rate Extended Against Land	Multiplied by	Years (not to exceed 9)	Equals	Compensating Tax
\$ _____	—	\$ _____	x	\$ _____	x	_____	=	\$ _____

(ii) Calculation of current year's taxes to date of removal:

	÷	365	=	
No. of days designated as forest land		No. of days in year		Proration factor (To items (A) and (B))
(A) \$ _____	x	_____	x	= \$ _____
Market value		Levy rate		Proration factor
(B) \$ _____	x	_____	x	= \$ _____
Forest land value		Levy rate		Proration factor
(C) Amount of compensating tax for current year ((A) minus (B))				= \$ _____

(c) The assessor notifies the treasurer of the amount of compensating tax and the due date for the tax by providing the treasurer a copy of the removal notice. Compensating tax is due and payable to the county treasurer thirty days after the assessor mails to the owner the notice of removal informing the owner of the reasons for removal and the amount of compensating tax due. RCW 84.33.140(11). However, when property is sold or transferred, any compensating tax owed must be paid to the county treasurer before recording the conveyance. The county recording authority will not accept any instrument transferring the land, unless the compensating tax was paid or was not owed.

(d) **What happens if the compensating tax is not paid on the due date?** If the compensating tax is not paid by the due date, the tax is considered delinquent. Interest, set at the statutory rate for delinquent property taxes specified in RCW 84.56.020, will accrue against the amount of the outstanding taxes from the due date until the entire amount owing is paid. Unpaid compensating tax and interest becomes a lien on the land. RCW 84.60.020.

(i) This lien attaches at the time the forest land is removed from designation.

(ii) The lien has priority over any recognizance, mortgage, judgment, debt, obligation, or responsibility against the land.

(iii) This lien must be fully paid before any other recognizance, mortgage, judgment, debt, obligation, or responsibility may be charged against the land.

(iv) The lien can be foreclosed upon expiration of the same period after delinquency and in the same manner as liens for delinquent real property taxes are foreclosed under RCW 84.64.050. RCW 84.33.140(12).

(e) **Compensating tax is not imposed on land removed from the forest land designation if the removal resulted solely from any of the following:**

(i) A transfer to a government entity in exchange for other forest land within Washington state;

(ii) A transfer under either the power of eminent domain or upon the threat of eminent domain by an entity with the power of eminent domain that intends to exercise this power. The entity must threaten to exercise eminent domain in writing or demonstrate this threat by some other official action;

(iii) A donation of fee title, development rights, or the right to harvest timber in order to protect, preserve, maintain, improve, restore, limit the future use, or conserve the prop-

erty for public use or enjoyment (see RCW 84.34.210 and 64.04.130). Provided, this donation is made to a:

(A) State agency;

(B) Federal agency;

(C) County;

(D) City;

(E) Town;

(F) Metropolitan park district (see RCW 35.61.010);

(G) Metropolitan municipal corporation (see RCW 35.58.020);

(H) Nonprofit historic preservation corporation as defined in RCW 64.04.130; or

(I) Nonprofit nature conservancy corporation or association as defined in RCW 84.34.250.

However, when the land is no longer being used for one of the purposes listed above, compensating tax will be imposed on the owner of the land at that time;

(iv) The sale or transfer of fee title to a government entity (see the governmental entities listed above in clause (iii) of this rule section) or a nonprofit nature conservancy corporation as defined in RCW 64.04.130 exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage advisory council under its established natural heritage plan as defined in chapter 79.70 RCW (natural area preserves). However, if the land is no longer used to protect and conserve the area for state natural area preserve purposes, or fails to comply with the terms of a natural heritage plan, compensating tax will be imposed on the owner of the land at that time;

(v) A sale or transfer of fee title to the state's parks and recreations commission for park and recreation purposes;

(vi) An official action of an agency of the state of Washington or the county or city in which the land is located disallowing the current use of the land. "Official action" includes city ordinances, zoning restrictions, the Growth Management Act, the Shoreline Management Act, and the Environmental Policy Act;

(vii) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(viii) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040;

(ix) In a county with a population of more than one million (i.e., King County), a transfer of a property interest to a government entity, or to a nonprofit historic preservation cor-

poration or nonprofit nature conservancy corporation (as these corporations are defined in RCW 64.04.130) and the property interest being transferred is to:

(A) Protect or enhance public resources; or

(B) Preserve, maintain, improve, restore, limit the future use of, or otherwise to conserve for public use or enjoyment. When the land is no longer being used for any of these purposes, the owner of the land at the time will be required to pay compensating tax. RCW 84.33.140 (12) and (13);

(x) The sale or transfer of forest land within two years after the death of an owner who held at least a fifty percent interest in the land if:

(A) The individual(s) or entity(s) who received the land from the deceased owner is selling or transferring the land; and

(B) The land has been continuously assessed and valued as classified or designated forest land under chapter 84.33 RCW or classified under chapter 84.34 RCW since 1993. The date of death shown on the death certificate begins the two-year period for sale or transfer; or

(xi) The sale or transfer of forest land between July 22, 2001, and July 22, 2003, if:

(A) An owner who held at least a fifty percent interest in the land died after January 1, 1991;

			365			
(i)	$\frac{\text{No. of days from date of removal to the end of the year}}{\text{No. of days in year}}$	\div		$=$		Proration factor for true and fair land value
(ii)	$\frac{\$ \text{ Market value}}{\text{Levy rate}}$	\times	\times	$=$		\$ _____
(iii)	$\frac{\$ \text{ Forest land value}}{\text{Levy rate}}$	\times	\times	$=$		\$ _____
(iv)	Total amount of increased taxes for current year ((ii) minus (iii))				$=$	\$ _____

(c) If the taxes for the year of removal have not yet been billed, the tax should be recalculated based on the true and fair value of the land removed for the portion of the year following the date of removal.

(d) An owner may appeal the true and fair value of the land used to calculate the increase in the remaining current year's taxes or the compensating taxes within thirty days of the notice (or up to sixty days if such time limit has been adopted by the county legislative authority) or on or before July 1st, whichever is later. RCW 84.40.038.

(8) What happens when forest land reclassified under chapter 84.34 RCW is later removed from that classification before ten years have passed? If reclassified forest land is later removed, a combination of compensating tax and additional tax will be imposed unless the basis for removal is one of the circumstances listed as exempt from additional tax under RCW 84.34.108(6).

(a) The amount of compensating tax is equal to the difference, if any, between the amount of property tax last levied on the land as forest land and an amount equal to the new true and fair value of the land when removed from classification under RCW 84.34.108 multiplied by the dollar rate of the last property tax levy extended against the land, multiplied by

(b) A number equal to:

(B) The individual(s) or entity(s) who received the land from the deceased owner is selling or transferring the land; and

(C) The land has been continuously assessed and valued as classified or designated forest land under chapter 84.33 RCW or classified under chapter 84.34 RCW continuously since 1993. The date of death shown on the death certificate is the date used to determine the owner's date of death.

(7) When will the land be assessed at its true and fair value and the taxes become payable? The land will be assessed at its true and fair value on the date it is removed from forest land status. The assessor revalues the land removed from forest land status with reference to its true and fair value on January 1st in the year of removal. RCW 84.33.140(10). The property tax for the remainder of the year following the date of removal is based on land's true and fair value.

(a) To calculate the increase the assessor must determine the number of days remaining in the year from the date of removal. The increase in property tax is due on the same due date as all other property taxes are due for the year (generally, April 30th and October 1st of the current year. See RCW 84.56.020).

(b) Formula for calculating the increase in property taxes for the remainder of the year in which the land is being removed:

(i) The number of years the land was classified or designated as forest land under chapter 84.33 RCW, if the total number of years the land was classified or designated under chapter 84.33 RCW and classified under chapter 84.34 RCW is less than ten; or

(ii) Ten minus the number of years the land was classified under chapter 84.34 RCW, if the total number of years the land was classified or designated under chapter 84.33 RCW and under chapter 84.34 RCW is at least ten.

[Statutory Authority: RCW 84.34.141, 84.34.020, and 84.34.030. 02-20-041, § 458-30-700, filed 9/24/02, effective 10/25/02. Statutory Authority: RCW 82.32.300, 84.33.096, and 84.33.140. 02-05-043, § 458-30-700, filed 2/13/02, effective 3/16/02.]

Chapter 458-40 WAC

TAXATION OF FOREST LAND AND TIMBER

WAC

458-40-530	Property tax, forest land—Land grades—Operability classes.
458-40-540	Forest land values—2007.
458-40-610	Timber excise tax—Definitions.
458-40-626	Timber excise tax—Tax liability—Private timber, tax due when timber harvested.
458-40-628	Timber excise tax—Tax liability—Public timber, lump sum and scale sales.
458-40-640	Timber excise tax—Stumpage value area (map).

- 458-40-650 Timber excise tax—Timber quality codes defined.
458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments.
458-40-670 Timber excise tax—Chipwood and small log destinations.
458-40-680 Timber excise tax—Volume harvested—Approved scaling and grading methods—Sample scaling—Conversions.

**DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER**

- 458-40-010 Definitions. [Order 71-4, § 458-40-010, filed 10/8/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-020 Forest land grading rules. [Order 71-4, § 458-40-020, filed 10/8/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-025 Forest land values. [Order 72-6, § 458-40-025, filed 6/28/72; Order PT 72-2, § 458-40-025, filed 2/18/72.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-026 Forest land values—1973. [Order PT 72-14, § 458-40-026, filed 11/29/72.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-027 Forest land values—1974. [Order PT 73-9, § 458-40-027, filed 11/30/73.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-028 Forest land values—1975. [Order FT 74-1, § 458-40-028, filed 11/22/74.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-029 Forest land values—1976. [Order FT 75-6, § 458-40-029, filed 12/1/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-030 Forest land designation. [Order FT 75-3, § 458-40-030, filed 6/5/75; Order 71-4, § 458-40-030, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-040 Definitions. [Order FT 75-3, § 458-40-040, filed 6/5/75; Order 71-4, § 458-40-040, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-050 Forest land application. [Order FT 75-3, § 458-40-050, filed 6/5/75; Order 71-4, § 458-40-050, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-060 Forest management plan. [Order FT 75-3, § 458-40-060, filed 6/5/75; Order 71-4, § 458-40-060, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-070 Notification by assessor of denial of application, appeals. [Order FT 75-3, § 458-40-070, filed 6/5/75; Order 71-4, § 458-40-070, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-080 Notification by assessor of removal of designated forest land, appeals. [Order FT 75-3, § 458-40-100 (codified as WAC 458-40-080), filed 6/5/75; Order 71-4, § 458-40-080, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-090 Notation on assessment and tax rolls of designated forest land. [Order FT 75-3, § 458-40-080 (codified as WAC 458-40-090), filed 6/5/75; Order 71-4, § 458-40-090, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-100 Removal from designation. [Order FT 75-3, § 458-40-090 (codified as WAC 458-40-100), filed 6/5/75; Order 71-4, § 458-40-100, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-10001 Compensating tax liability and rate. [Order FT 75-3, § 458-40-110 (codified as WAC 458-40-10001), filed 6/5/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-110 Definitions. [Order 71-4, § 458-40-110, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-120 Timber roll—Preparation and use. [Order 71-4, § 458-40-120, filed 12/17/71 and 1/13/72.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-121 Timber roll—Correction affecting timber factor. [Order 73-5, § 458-40-121, filed 8/13/73.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-130 Reconstruction of 1970 timber value. [Order 71-4, § 458-40-130, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-140 Timber—Assessed valuation. [Order 71-4, § 458-40-140, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-150 Determining millage. [Order 71-4, § 458-40-150, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-160 Stumpage value areas. [Order 72-13, § 458-40-160, stumpage value area map, filed 11/28/72.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-161 Stumpage value areas. [Order PT 73-8, § 458-40-161, filed 11/1/73.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-162 Stumpage value areas. [Order FT 74-2, § 458-40-162, filed 11/27/74.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-163 Stumpage value areas. [Order FT 76-2, § 458-40-163, filed 7/1/76; Order FT 75-7, § 458-40-163, filed 12/1/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-164 Stumpage value areas. [Order FT 76-2, § 458-40-164, filed 7/1/76.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-165 Hauling distance zones. [Order 72-13, § 458-40-165, filed 11/28/72.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-166 Hauling distance zones. [Order PT 73-8, § 458-40-166, filed 11/1/73.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-167 Hauling distance zones. [Order FT 74-2, § 458-40-167, filed 11/27/74.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-168 Hauling distance zones. [Order FT 76-2, § 458-40-168, filed 7/1/76; Order FT 75-7, § 458-40-168, filed 12/1/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-169 Hauling distance zones. [Order FT 76-2, § 458-40-169, filed 7/1/76.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-170 Stumpage values. [Order 72-13, § 458-40-170 and Stumpage Tables, filed 11/28/72.] Decodified.
- 458-40-171 Stumpage values. [Order PT 74-3, § 458-40-171, filed 3/21/74; Order PT 73-8, § 458-40-171, filed 11/1/73.] Decodified.
- 458-40-172 Stumpage values. [Order 75-5, § 458-40-172, filed 8/8/75; Emergency Order FT 75-4, § 458-40-172, filed 7/1/75; Order FT 74-2, § 458-40-172, filed 11/27/74.] Decodified.
- 458-40-173 Stumpage values. [Order FT 76-2, § 458-40-173, filed 7/1/76; Order FT 75-7, § 458-40-173, filed 12/1/75.] Decodified.
- 458-40-174 Stumpage values. [Order FT 76-2, § 458-40-174, filed 7/1/76.] Decodified.
- 458-40-175 Adjustments. [Order 72-13, § 458-40-175 and Adjustment Tables, filed 11/28/72.] Decodified.
- 458-40-176 Adjustments. [Order PT 73-8, § 458-40-176, filed 11/1/73.] Decodified.
- 458-40-177 Adjustments. [Order 75-2, § 458-40-177, filed 5/12/75; Order FT 74-2, § 458-40-177, filed 11/27/74.] Decodified.
- 458-40-178 Adjustments. [Order FT 76-2, § 458-40-178, filed 7/1/76; Order FT 75-7, § 458-40-178, filed 12/1/75.] Decodified.
- 458-40-179 Adjustments. [Order FT 76-2, § 458-40-179, filed 7/1/76.] Decodified.

458-40-180	Quality classes. [Order 72-13, § 458-40-180 and Quality Class Tables, filed 11/28/72.] Decodified.	458-40-18616	Timber quality code numbers—Tables for 1/1/78 through 6/30/78. [Order FT 77-5, § 458-40-18616, filed 12/30/77.] Decodified.
458-40-181	Quality classes. [Order PT 74-3, § 458-40-181, filed 3/21/74; Order PT 73-8, § 458-40-181, filed 11/7/73 and 11/1/73.] Decodified.	458-40-18617	Stumpage values—Tables for 1/1/78 through 6/30/78. [Order FT 77-5, § 458-40-18617, filed 12/30/77.] Decodified.
458-40-182	Quality classes. [Order FT 74-2, § 458-40-182, filed 11/27/74.] Decodified.	458-40-18618	Harvester adjustments—Tables for 1/1/78 through 6/30/78. [Order FT 77-5, § 458-40-18618, filed 12/30/77.] Decodified.
458-40-183	Quality classes. [Order FT 76-2, § 458-40-183, filed 7/1/76; Order FT 75-7, § 458-40-183, filed 12/1/75.] Decodified.	458-40-18619	Definitions for 7/1/78 through 12/31/78. [Statutory Authority: RCW 82.04.291. 78-07-065 (Order FT 78-2), § 458-40-18619, filed 6/30/78.] Decodified.
458-40-184	Quality classes. [Order FT 76-2, § 458-40-184, filed 7/1/76.] Decodified.	458-40-18620	Stumpage value areas—Map for 7/1/78 through 12/31/78. [Statutory Authority: RCW 82.04.291. 78-07-065 (Order FT 78-2), § 458-40-18620, filed 6/30/78.] Decodified.
458-40-185	Stumpage index definition. [Order FT 75-1, § 458-40-185, filed 2/21/75.] Repealed by Order FT 76-2, filed 7/1/76.	458-40-18621	Hauling distance zones—Maps for 7/1/78 through 12/31/78. [Statutory Authority: RCW 82.04.291. 78-07-065 (Order FT 78-2), § 458-40-18621, filed 6/30/78.] Decodified.
458-40-18600	General. [Statutory Authority: Chapter 84.33 RCW. 85-02-026 (Order FT-84-7), § 458-40-18600, filed 12/28/84. Statutory Authority: RCW 82.01.060 and 1984 c 204. 84-14-049 (Order FT-84-4), § 458-40-18600, filed 6/29/84. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-18600, filed 12/30/83. Statutory Authority: RCW 84.33.071. 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-18600, filed 6/30/83, effective 6/30/83. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-18600, filed 12/30/82. Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-18600, filed 6/30/82; 82-02-035 (Order FT-81-4), § 458-40-18600, filed 12/31/81; 81-14-047 (Order FT 81-2), § 458-40-18600, filed 6/30/81; 81-02-007 (Order FT 80-6), § 458-40-18600, filed 12/30/80; 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-18600, filed 6/30/80, effective 6/30/80; 80-01-091 (Order FT 79-40), § 458-40-18600, filed 12/31/79; Order 76-5, § 458-40-18600, filed 12/31/76.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.	458-40-18622	Timber quality code numbers—Tables for 7/1/78 through 12/31/78. [Statutory Authority: RCW 82.04.291. 78-07-065 (Order FT 78-2), § 458-40-18622, filed 6/30/78.] Decodified.
458-40-18601	Definitions. [Order 76-5, § 458-40-18601, filed 12/31/76.] Decodified.	458-40-18623	Stumpage values—Tables for 7/1/78 through 12/31/78. [Statutory Authority: 1979 c 6 § 1. 79-08-014 (Order FT 79-37), § 458-40-18623, filed 7/10/79. Statutory Authority: RCW 82.04.291. 78-07-065 (Order FT 78-2), § 458-40-18623, filed 6/30/78.] Decodified.
458-40-18602	Stumpage value areas—Map for 1/1/77 through 6/30/77. [Order 76-5, § 458-40-18602, filed 12/31/76.] Decodified.	458-40-18624	Harvestable adjustments—Tables for 7/1/78 through 12/31/78. [Statutory Authority: RCW 82.04.291. 78-07-065 (Order FT 78-2), § 458-40-18624, filed 6/30/78.] Decodified.
458-40-18603	Hauling distance zones—Maps for 1/1/77 through 6/30/77. [Order 76-5, § 458-40-18603, filed 12/31/76.] Decodified.	458-40-18625	Definitions for 1/1/79 through 6/30/79. [Statutory Authority: RCW 82.04.291. 79-01-065 (Order FT 78-7), § 458-40-18625, filed 12/29/78.] Decodified.
458-40-18604	Timber quality code numbers—Tables for 1/1/77 through 6/30/77. [Order 76-5, § 458-40-18604, filed 12/31/76.] Decodified.	458-40-18626	Stumpage value areas—Map for 1/1/79 through 6/30/79. [Statutory Authority: RCW 82.04.291. 79-01-065 (Order FT 78-7), § 458-40-18626, filed 12/29/78.] Decodified.
458-40-18605	Stumpage values—Tables for 1/1/77 through 6/30/77. [Order 76-5, § 458-40-18605, filed 12/31/76.] Decodified.	458-40-18627	Hauling distance zones—Maps for 1/1/79 through 6/30/79. [Statutory Authority: RCW 82.04.291. 79-01-065 (Order FT 78-7), § 458-40-18627, filed 12/29/78.] Decodified.
458-40-18606	Harvest adjustments—Tables for 1/1/77 through 6/30/77. [Order 76-5, § 458-40-18606, filed 12/31/76.] Decodified.	458-40-18628	Timber quality code numbers—Tables for 1/1/79 through 6/30/79. [Statutory Authority: RCW 82.04.291. 79-01-065 (Order FT 78-7), § 458-40-18628, filed 12/29/78.] Decodified.
458-40-18607	Definitions for 7/1/77 through 12/31/77. [Order 77-2, § 458-40-18607, filed 6/29/77.] Decodified.	458-40-18629	Stumpage values—Tables for 1/1/79 through 6/30/79. [Statutory Authority: RCW 82.04.291. 79-01-065 (Order FT 78-7), § 458-40-18629, filed 12/29/78.] Decodified.
458-40-18608	Stumpage value areas—Map for 7/1/77 through 12/31/77. [Order 77-2, § 458-40-18608, filed 6/29/77.] Decodified.	458-40-18630	Harvester adjustments—Tables for 1/1/79 through 6/30/79. [Statutory Authority: RCW 82.04.291. 79-01-065 (Order FT 78-7), § 458-40-18630, filed 12/29/78.] Decodified.
458-40-18609	Hauling distance zones—Maps for 7/1/77 through 12/31/77. [Order 77-2, § 458-40-18609, filed 6/29/77.] Decodified.	458-40-18631	Definitions for 7/1/79 through 12/31/79. [Statutory Authority: RCW 82.01.060 and 1979 c 6 § 1. 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order FT 79-35), § 458-40-18631, filed 6/29/79, effective 6/29/79.] Decodified.
458-40-18610	Timber quality code numbers—Tables for 7/1/77 through 12/31/77. [Order 77-2, § 458-40-18610, filed 6/29/77.] Decodified.	458-40-18632	Stumpage value areas—Map for 7/1/79 through 12/31/79. [Statutory Authority: RCW 82.01.060 and 1979 c 6 § 1. 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order FT 79-35), § 458-40-18632, filed 6/29/79, effective 6/29/79.] Decodified.
458-40-18611	Stumpage values—Tables for 7/1/77 through 12/31/77. [Order 77-2, § 458-40-18611, filed 6/29/77.] Decodified.	458-40-18633	Hauling distance zones—Maps for 7/1/79 through 12/31/79. [Statutory Authority: RCW 82.01.060 and 1979 c 6 § 1. 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order FT 79-35), § 458-40-18633, filed 6/29/79, effective 6/29/79.] Decodified.
458-40-18612	Harvest adjustments—Tables for 7/1/77 through 12/31/77. [Order 77-2, § 458-40-18612, filed 6/29/77.] Decodified.	458-40-18634	Timber quality code numbers—Tables for 7/1/79 through 12/31/79. [Statutory Authority: RCW 82.01.060 and 1979 c 6 § 1. 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order FT 79-35), § 458-40-18634, filed 6/29/79, effective 6/29/79.] Decodified.
458-40-18613	Definitions for 1/1/78 through 6/30/78. [Order FT 77-5, § 458-40-18613, filed 12/30/77.] Decodified.	458-40-18635	Stumpage values—Tables for 7/1/79 through 12/31/79. [Statutory Authority: RCW 82.01.060 and 1979 c 6 § 1. 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order FT 79-35), § 458-40-18635, filed 6/29/79, effective 6/29/79.] Decodified.
458-40-18614	Stumpage value areas—Map for 1/1/78 through 6/30/78. [Order FT 77-5, § 458-40-18614, filed 12/30/77.] Decodified.	458-40-18636	Harvester adjustments—Tables for 7/1/79 through 12/31/79. [Statutory Authority: RCW 82.01.060 and
458-40-18615	Hauling distance zones—Maps for 1/1/78 through 6/30/78. [Order FT 77-5, § 458-40-18615, filed 12/30/77.] Decodified.		

	1979 c 6 § 1. 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order FT 79-35), § 458-40-18636, filed 6/29/79, effective 6/29/79.] Decodified.		(Order FT 81-2), § 458-40-18655, filed 6/30/81.] Decodified.
458-40-18637	Definitions for 1/1/80 through 6/30/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-01-091 (Order FT 79-40), § 458-40-18637, filed 12/31/79.] Decodified.	458-40-18656	Stumpage value areas—Map for 7/1/81 through 12/31/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-14-047 (Order FT 81-2), § 458-40-18656, filed 6/30/81.] Decodified.
458-40-18638	Stumpage value areas—Map for 1/1/80 through 6/30/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-01-091 (Order FT 79-40), § 458-40-18638, filed 12/31/79.] Decodified.	458-40-18657	Hauling distance zones—Maps for 7/1/81 through 12/31/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-14-047 (Order FT 81-2), § 458-40-18657, filed 6/30/81.] Decodified.
458-40-18639	Hauling distance zones—Maps for 1/1/80 through 6/30/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-01-091 (Order FT 79-40), § 458-40-18639, filed 12/31/79.] Decodified.	458-40-18658	Timber quality code numbers—Tables for 7/1/81 through 12/31/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-14-047 (Order FT 81-2), § 458-40-18658, filed 6/30/81.] Decodified.
458-40-18640	Timber quality code numbers—Tables for 1/1/80 through 6/30/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-01-091 (Order FT 79-40), § 458-40-18640, filed 12/31/79.] Decodified.	458-40-18659	Stumpage values—Tables for 7/1/81 through 12/31/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-14-047 (Order FT 81-2), § 458-40-18659, filed 6/30/81.] Decodified.
458-40-18641	Stumpage values—Tables for 1/1/80 through 6/30/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-01-091 (Order FT 79-40), § 458-40-18641, filed 12/31/79.] Decodified.	458-40-18660	Harvester adjustments—Tables for 7/1/81 through 12/31/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-14-047 (Order FT 81-2), § 458-40-18660, filed 6/30/81.] Decodified.
458-40-18642	Harvestable adjustments—Tables for 1/1/80 through 6/30/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-01-091 (Order FT 79-40), § 458-40-18642, filed 12/31/79.] Decodified.	458-40-18661	Definitions for 1/1/82 through 6/30/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-02-035 (Order FT-81-4), § 458-40-18661, filed 12/31/81.] Decodified.
458-40-18643	Definitions for 7/1/80 through 12/31/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-18643, filed 6/30/80, effective 6/30/80.] Decodified.	458-40-18662	Stumpage value areas—Map for 1/1/82 through 6/30/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-02-035 (Order FT-81-4), § 458-40-18662, filed 12/31/81.] Decodified.
458-40-18644	Stumpage value areas—Map for 7/1/80 through 12/31/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-18644, filed 6/30/80, effective 6/30/80.] Decodified.	458-40-18663	Hauling distance zones—Maps for 1/1/82 through 6/30/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-02-035 (Order FT-81-4), § 458-40-18663, filed 12/31/81.] Decodified.
458-40-18645	Hauling distance zones—Maps for 7/1/80 through 12/31/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-18645, filed 6/30/80, effective 6/30/80.] Decodified.	458-40-18664	Timber quality code numbers—Tables for 1/1/82 through 6/30/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-02-035 (Order FT-81-4), § 458-40-18664, filed 12/31/81.] Decodified.
458-40-18646	Timber quality code numbers—Tables for 7/1/80 through 12/31/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-18646, filed 6/30/80, effective 6/30/80.] Decodified.	458-40-18665	Stumpage values—Tables for 1/1/82 through 6/30/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-02-035 (Order FT-81-4), § 458-40-18665, filed 12/31/81.] Decodified.
458-40-18647	Stumpage values—Tables for 7/1/80 through 12/31/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-18647, filed 6/30/80, effective 6/30/80.] Decodified.	458-40-18666	Harvester adjustments—Tables for 1/1/82 through 6/30/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-02-035 (Order FT-81-4), § 458-40-18666, filed 12/31/81.] Decodified.
458-40-18648	Harvester adjustments—Tables for 7/1/80 through 12/31/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-18648, filed 6/30/80, effective 6/30/80.] Decodified.	458-40-18667	Small harvester option for 1/1/82 through 6/30/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-02-035 (Order FT-81-4), § 458-40-18667, filed 12/31/81.] Decodified.
458-40-18649	Definitions for 1/1/81 through 6/30/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-02-007 (Order FT 80-6), § 458-40-18649, filed 12/30/80.] Decodified.	458-40-18668	Definitions for small harvester option for 1/1/82 through 6/30/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-02-035 (Order FT-81-4), § 458-40-18668, filed 12/31/81.] Decodified.
458-40-18650	Stumpage value areas—Map for 1/1/81 through 6/30/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-02-007 (Order FT 80-6), § 458-40-18650, filed 12/30/80.] Decodified.	458-40-18669	Taxable stumpage value for 1/1/82 through 6/30/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-02-035 (Order FT-81-4), § 458-40-18669, filed 12/31/81.] Decodified.
458-40-18651	Hauling distance zones—Maps for 1/1/81 through 6/30/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-02-007 (Order FT 80-6), § 458-40-18651, filed 12/30/80.] Decodified.	458-40-18670	Definitions for 7/1/82 through 12/31/82. [Statutory Authority: RCW 82.01.060, 84.33.030 and 84.33.071 as amended by 1982 2nd ex.s. c 4. 82-19-011 (Order FT-82-5), § 458-40-18670, filed 9/7/82. Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-18670, filed 6/30/82.] Decodified.
458-40-18652	Timber quality code numbers—Tables for 1/1/81 through 6/30/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-02-007 (Order FT 80-6), § 458-40-18652, filed 12/30/80.] Decodified.	458-40-18671	Stumpage value areas—Map for 7/1/82 through 12/31/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-18671, filed 6/30/82.] Decodified.
458-40-18653	Stumpage values—Tables for 1/1/81 through 6/30/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-02-007 (Order FT 80-6), § 458-40-18653, filed 12/30/80.] Decodified.	458-40-18672	Hauling distance zones—Maps for 7/1/82 through 12/31/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-18672, filed 6/30/82.] Decodified.
458-40-18654	Harvester adjustments—Tables for 1/1/81 through 6/30/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-02-007 (Order FT 80-6), § 458-40-18654, filed 12/30/80.] Decodified.	458-40-18673	Timber quality code numbers—Tables for 7/1/82 through 12/31/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-18673, filed 6/30/82.] Decodified.
458-40-18655	Definitions for 7/1/81 through 12/31/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-14-047	458-40-18674	Stumpage values—Tables for 7/1/82 through 12/31/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-18674, filed 6/30/82.] Decodified.
		458-40-18675	Harvester adjustments—Tables for 7/1/82 through 12/31/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-18675, filed 6/30/82.] Decodified.

458-40-18676	Small harvester option for 7/1/82 through 12/31/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-18676, filed 6/30/82.] Decodified.		
458-40-18677	Definitions for small harvester option for 7/1/82 through 12/31/82. [Statutory Authority: RCW 82.01.060, 84.33.030 and 84.33.071 as amended by 1982 2nd ex.s. c 4. 82-19-011 (Order FT-82-5), § 458-40-18677, filed 9/7/82. Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-18677, filed 6/30/82.] Decodified.	458-40-18693	Harvester adjustments—Tables for July 1 through December 31, 1983. [Statutory Authority: RCW 84.33.-071. 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-18693, filed 6/30/83, effective 6/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-18678	Taxable stumpage value for 7/1/82 through 12/31/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-18678, filed 6/30/82.] Decodified.	458-40-18694	Small harvester option for July 1 through December 31, 1983. [Statutory Authority: RCW 84.33.071. 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-18694, filed 6/30/83, effective 6/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-18679	Definitions for January 1 through June 30, 1983. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-18679, filed 12/30/82.] Decodified.	458-40-18695	Definitions for small harvester option for July 1 through December 31, 1983. [Statutory Authority: RCW 84.33.-071. 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-18695, filed 6/30/83, effective 6/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-18680	Stumpage value areas—Map for January 1 through June 30, 1983. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-18680, filed 12/30/82.] Decodified.		
458-40-18681	Hauling distance zones—Maps for January 1 through June 30, 1983. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-18681, filed 12/30/82.] Decodified.	458-40-18696	Taxable stumpage value for July 1 through December 31, 1983. [Statutory Authority: RCW 84.33.071. 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-18696, filed 6/30/83, effective 6/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-18682	Timber quality code numbers—Tables for January 1 through June 30, 1983. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-18682, filed 12/30/82.] Decodified.		
458-40-18683	Stumpage values—Tables for January 1 through June 30, 1983. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-18683, filed 12/30/82.] Decodified.	458-40-18700	Definitions. [Statutory Authority: Chapter 84.33 RCW. 86-14-064 (Order FT-86-2), § 458-40-18700, filed 6/30/86; 86-02-045 (Order FT-85-5), § 458-40-18700, filed 12/31/85; 85-02-026 (Order FT-84-7), § 458-40-18700, filed 12/28/84. Statutory Authority: RCW 82.01.060 and 1984 c 204. 84-14-049 (Order FT-84-4), § 458-40-18700, filed 6/29/84. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-18700, filed 12/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-18684	Harvestable adjustments—Tables for January 1 through June 30, 1983. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-18684, filed 12/30/82.] Decodified.	458-40-18701	Small harvester option. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-18701, filed 12/30/83.] Repealed by 84-14-049 (Order FT-84-4), filed 6/29/84. Statutory Authority: RCW 82.01.060 and 1984 c 204.
458-40-18685	Small harvester option for January 1 through June 30, 1983. [Statutory Authority: RCW 82.01.060, 84.33.-071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-18685, filed 12/30/82.] Decodified.	458-40-18702	Definitions for small harvester option. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-18702, filed 12/30/83.] Repealed by 84-14-049 (Order FT-84-4), filed 6/29/84. Statutory Authority: RCW 82.01.060 and 1984 c 204.
458-40-18686	Definitions for small harvester option for January 1 through June 30, 1983. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-18686, filed 12/30/82.] Decodified.	458-40-18703	Taxable stumpage value for small harvester option. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-18703, filed 12/30/83.] Repealed by 84-14-049 (Order FT-84-4), filed 6/29/84. Statutory Authority: RCW 82.01.060 and 1984 c 204.
458-40-18687	Taxable stumpage value for January 1 through June 30, 1983. [Statutory Authority: RCW 82.01.060, 84.33.-071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-18687, filed 12/30/82.] Decodified.	458-40-18704	Stumpage value areas and hauling distance zone—Map. [Statutory Authority: Chapter 84.33 RCW. 86-14-064 (Order FT-86-2), § 458-40-18704, filed 6/30/86; 85-02-026 (Order FT-84-7), § 458-40-18704, filed 12/28/84. Statutory Authority: RCW 82.01.060 and 1984 c 204. 84-14-049 (Order FT-84-4), § 458-40-18704, filed 6/29/84. Statutory Authority: RCW 82.01.060, 84.33.-071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-18704, filed 12/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-18688	Definitions for July 1 through December 31, 1983. [Statutory Authority: RCW 84.33.071. 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-18688, filed 6/30/83, effective 6/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.	458-40-18705	Hauling distance zones—Maps. [Statutory Authority: RCW 82.01.060 and 1984 c 204. 84-14-049 (Order FT-84-4), § 458-40-18705, filed 6/29/84. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-18705, filed 12/30/83.] Repealed by 85-02-026 (Order FT-84-7), filed 12/28/84. Statutory Authority: Chapter 84.33 RCW.
458-40-18689	Stumpage value areas—Map for July 1 through December 31, 1983. [Statutory Authority: RCW 84.33.071. 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-18689, filed 6/30/83, effective 6/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.	458-40-18706	Timber quality code numbers—Tables. [Statutory Authority: Chapter 84.33 RCW. 86-14-064 (Order FT-86-2), § 458-40-18706, filed 6/30/86; 86-02-045 (Order FT-85-5), § 458-40-18706, filed 12/31/85; 85-02-026 (Order FT-84-7), § 458-40-18706, filed 12/28/84. Statutory Authority: Chapter 84.33 RCW.
458-40-18690	Hauling distance zones—Maps for July 1 through December 31, 1983. [Statutory Authority: RCW 84.33.-071. 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-18690, filed 6/30/83, effective 6/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.		
458-40-18691	Timber quality code numbers—Tables for July 1 through December 31, 1983. [Statutory Authority: RCW 84.33.071. 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-18691, filed 6/30/83, effective 6/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.		
458-40-18692	Stumpage values—Tables for July 1 through December 31, 1983. [Statutory Authority: RCW 84.33.071. 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Per-		

- tory Authority: RCW 82.01.060 and 1984 c 204. 84-14-049 (Order FT-84-4), § 458-40-18706, filed 6/29/84. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-18706, filed 12/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-18711 Stumpage values—Tables for January 1 through June 30, 1984. [Statutory Authority: RCW 82.01.060 and 84.33.071. 84-08-020 (Order FT-84-1), § 458-40-18711, filed 3/28/84. Statutory Authority: RCW 82.01-060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-18711, filed 12/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-18712 Harvester adjustments—Tables for January 1 through June 30, 1984. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-18712, filed 12/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-18713 Stumpage values—Tables for July 1 through December 31, 1984. [Statutory Authority: RCW 82.01.060 and 1984 c 204. 84-14-049 (Order FT-84-4), § 458-40-18713, filed 6/29/84.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-18714 Harvester adjustments—Tables for July 1 through December 31, 1984. [Statutory Authority: RCW 82.01-060 and 1984 c 204. 84-14-049 (Order FT-84-4), § 458-40-18714, filed 6/29/84.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-18715 Stumpage values—Tables for January 1 through June 30, 1985. [Statutory Authority: Chapter 84.33 RCW. 85-02-026 (Order FT-84-7), § 458-40-18715, filed 12/28/84.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-18716 Harvester adjustments—Tables for January 1 through June 30, 1985. [Statutory Authority: Chapter 84.33 RCW. 85-02-026 (Order FT-84-7), § 458-40-18716, filed 12/28/84.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-18717 Stumpage values—Tables for July 1 through December 31, 1985. [Statutory Authority: Chapter 84.33 RCW. 85-14-048 (Order FT-85-2), § 458-40-18717, filed 6/28/85.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-18718 Harvester adjustments—Tables for July 1 through December 31, 1985. [Statutory Authority: Chapter 84.33 RCW. 85-14-048 (Order FT-85-2), § 458-40-18718, filed 6/28/85.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-18719 Stumpage values—Tables for January 1 through June 30, 1986. [Statutory Authority: Chapter 84.33 RCW. 86-02-045 (Order FT-85-5), § 458-40-18719, filed 12/31/85.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-18720 Harvester adjustments—Tables for January 1 through June 30, 1986. [Statutory Authority: Chapter 84.33 RCW. 86-02-045 (Order FT-85-5), § 458-40-18720, filed 12/31/85.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-18721 Stumpage values—Tables for July 1 through December 31, 1986. [Statutory Authority: Chapter 84.33 RCW. 86-14-064 (Order FT-86-2), § 458-40-18721, filed 6/30/86.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-18722 Harvester adjustments—Tables for July 1 through December 31, 1986. [Statutory Authority: Chapter 84.33 RCW. 86-14-064 (Order FT-86-2), § 458-40-18722, filed 6/30/86.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19000 Timber pole volume table for west of Cascade summit. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-19000, filed 12/30/83. Statutory Authority: RCW 84.33.071. 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-19000, filed 6/30/83, effective 6/30/83. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-19000, filed 12/30/82. Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-19000, filed 6/30/82; 82-02-035 (Order FT-81-4), § 458-40-19000, filed 12/31/81; 81-14-047 (Order FT 81-2), § 458-40-19000, filed 6/30/81; 81-02-007 (Order FT 80-6), § 458-40-19000, filed 12/30/80; 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-19000, filed 6/30/80, effective 6/30/80; 80-01-091 (Order FT 79-40), § 458-40-19000, filed 12/31/79; 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order FT 79-35), § 458-40-19000, filed 6/29/79, effective 6/29/79. Statutory Authority: RCW 82.04.291. 79-01-065 (Order FT 78-7), § 458-40-19000, filed 12/29/78; 78-07-065 (Order FT 78-2), § 458-40-19000, filed 6/30/78; Order 77-2, § 458-40-19000, filed 6/29/77; Order 76-5, § 458-40-19000, filed 12/31/76.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19001 Timber piling volume table for west of Cascade summit. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-19001, filed 12/30/83. Statutory Authority: RCW 84.33.071. 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-19001, filed 6/30/83, effective 6/30/83. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-19001, filed 12/30/82. Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-19001, filed 6/30/82; 82-02-035 (Order FT-81-4), § 458-40-19001, filed 12/31/81; 81-14-047 (Order FT 81-2), § 458-40-19001, filed 6/30/81; 81-02-007 (Order FT 80-6), § 458-40-19001, filed 12/30/80; 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-19001, filed 6/30/80, effective 6/30/80; 80-01-091 (Order FT 79-40), § 458-40-19001, filed 12/31/79; 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order FT 79-35), § 458-40-19001, filed 6/29/79, effective 6/29/79. Statutory Authority: RCW 82.04.291. 79-01-065 (Order FT 78-7), § 458-40-19001, filed 12/29/78; 78-07-065 (Order FT 78-2), § 458-40-19001, filed 6/30/78; Order 77-2, § 458-40-19001, filed 6/29/77; Order 76-5, § 458-40-19001, filed 12/31/76.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19002 Timber pole volume table for east of Cascade summit. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-19002, filed 12/30/83. Statutory Authority: RCW 84.33.071. 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-19002, filed 6/30/83, effective 6/30/83. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-19002, filed 12/30/82. Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-19002, filed 6/30/82; 82-02-035 (Order FT-81-4), § 458-40-19002, filed 12/31/81; 81-14-047 (Order FT 81-2), § 458-40-19002, filed 6/30/81; 81-02-007 (Order FT 80-6), § 458-40-19002, filed 12/30/80; 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-19002, filed 6/30/80, effective 6/30/80; 80-01-091 (Order FT 79-40), § 458-40-19002, filed 12/31/79; 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order FT 79-35), § 458-40-19002, filed 6/29/79, effective 6/29/79. Statutory Authority: RCW 82.04.291. 79-01-065 (Order FT 78-7), § 458-40-19002, filed 12/29/78; 78-07-065 (Order FT 78-2), § 458-40-19002, filed 6/30/78; Order FT 77-5, § 458-40-19002, filed 12/30/77; Order 77-2, § 458-40-19002, filed 6/29/77; Order 76-5, § 458-40-19002, filed 12/31/76.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19003 Timber piling volume table for east of Cascade summit. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-19003, filed 12/30/83. Statutory Authority: RCW 84.33.071. 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-

- 40-19003, filed 6/30/83, effective 6/30/83. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-19003, filed 12/30/82. Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-19003, filed 6/30/82; 82-02-035 (Order FT-81-4), § 458-40-19003, filed 12/31/81; 81-14-047 (Order FT 81-2), § 458-40-19003, filed 6/30/81; 81-02-007 (Order FT 80-6), § 458-40-19003, filed 12/30/80; 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-19003, filed 6/30/80, effective 6/30/80; 80-01-091 (Order FT 79-40), § 458-40-19003, filed 12/31/79; 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order FT 79-35), § 458-40-19003, filed 6/29/79, effective 6/29/79. Statutory Authority: RCW 82.04.291. 79-01-065 (Order FT 78-7), § 458-40-19003, filed 12/29/78; 78-07-065 (Order FT 78-2), § 458-40-19003, filed 6/30/78; Order FT 77-5, § 458-40-19003, filed 12/30/77; Order 77-2, § 458-40-19003, filed 6/29/77; Order 76-5, § 458-40-19003, filed 12/31/76.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19004 Conversion definitions and factors. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-19004, filed 12/30/83. Statutory Authority: RCW 84.33.071. 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-19004, filed 6/30/83, effective 6/30/83. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-19004, filed 12/30/82. Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-19004, filed 6/30/82; 82-02-035 (Order FT-81-4), § 458-40-19004, filed 12/31/81; 81-14-047 (Order FT 81-2), § 458-40-19004, filed 6/30/81; 81-02-007 (Order FT 80-6), § 458-40-19004, filed 12/30/80; 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-19004, filed 6/30/80, effective 6/30/80; 80-01-091 (Order FT 79-40), § 458-40-19004, filed 12/31/79; 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order FT 79-35), § 458-40-19004, filed 6/29/79, effective 6/29/79. Statutory Authority: RCW 82.04.291. 79-01-065 (Order FT 78-7), § 458-40-19004, filed 12/29/78; 78-07-065 (Order FT 78-2), § 458-40-19004, filed 6/30/78; Order FT 77-5, § 458-40-19004, filed 12/30/77; Order 77-2, § 458-40-19004, filed 6/29/77; Order 76-5, § 458-40-19004, filed 12/31/76.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19005 Timber excise tax credit for personal property tax. [Statutory Authority: RCW 84.33.077. 84-08-021 (Order FT-84-2), § 458-40-19005, filed 3/28/84.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19100 Forest land values for year 1977. [Statutory Authority: RCW 84.33.120. 79-01-005 (Order FT 78-5), § 458-40-19100, filed 12/8/78; Order 76-3, § 458-40-19100, filed 12/1/76.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19101 Forest land values amended for western Washington for year 1978. [Statutory Authority: RCW 84.33.120. 83-05-013 (Order FT-83-2), § 458-40-19101, filed 2/8/83; 79-08-015 (Order FT 79-36), § 458-40-19101, filed 7/10/79; Order 77-3, § 458-40-19101, filed 11/30/77.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19102 Forest land values—1979. [Statutory Authority: RCW 84.33.120. 78-12-036 (Order FT 78-3), § 458-40-19102, filed 11/22/78.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19103 Forest land values—1980. [Statutory Authority: RCW 84.33.120. 79-12-061 (Order FT 79-38), § 458-40-19103, filed 11/29/79.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19104 Forest land values—1981. [Statutory Authority: RCW 84.33.120. 80-18-029 (Order FT 80-3), § 458-40-19104, filed 12/1/80.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19105 Forest land values—1981. [Statutory Authority: RCW 84.33.120. 80-18-030 (Order FT 80-4), § 458-40-19105, filed 12/1/80.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19106 Forest land values—1982. [Statutory Authority: RCW 84.33.120 as amended by chapter 148, Laws of 1981. 81-24-039 (Order FT 81-2), § 458-40-19106, filed 11/30/81.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19107 Forest land values—1983. [Statutory Authority: RCW 84.33.120 as amended by chapter 148, Laws of 1981. 82-24-030 (Order FT 82-6), § 458-40-19107, filed 11/23/82.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19108 Forest land values—1984. [Statutory Authority: RCW 84.33.120 as amended by 1981 c 148. 83-23-027 (Order FT 83-5), § 458-40-19108, filed 11/8/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19109 Forest land values—1985. [Statutory Authority: RCW 84.33.120 as amended by 1984 c 204. 84-24-011 (Order FT 84-5), § 458-40-19109, filed 11/27/84.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19110 Forest land values—1986. [Statutory Authority: RCW 84.33.120. 85-24-036 (Order FT-85-3), § 458-40-19110, filed 11/27/85.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19300 Private forest land grades according to species and site index. [Statutory Authority: RCW 84.33.120. 82-07-086 (Order FT 82-1), § 458-40-19300, filed 3/24/82; 80-18-030 (Order FT 80-4), § 458-40-19300, filed 12/1/80.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-300 Forest land classification. [Order FT 75-3, § 458-40-300, filed 6/5/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-310 Definitions. [Order FT 75-3, § 458-40-310, filed 6/5/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-320 Application for forest land classification. [Order FT 75-3, § 458-40-320, filed 6/5/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-330 Notation on assessment and tax rolls of classified forest land. [Order FT 75-3, § 458-40-330, filed 6/5/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-340 Removal of forest land classification. [Order FT 75-3, § 458-40-340, filed 6/5/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-350 Removal from classification—Compensating tax not imposed. [Order FT 75-3, § 458-40-350, filed 6/5/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-360 Notification to owner of removal. [Order FT 75-3, § 458-40-360, filed 6/5/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-370 Compensating tax liability and rate. [Order FT 75-3, § 458-40-370, filed 6/5/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-380 Appeals procedure for classification of forest lands. [Order FT 75-3, § 458-40-380, filed 6/5/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-500 Property tax, forest land—Statement of purpose. [Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-500, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-510 Property tax, forest land—Definitions. [Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-510, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-520 Property tax, forest land—Classification, designation, removal by assessor, compensating taxes. [Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-

- 4), § 458-40-520, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-535 Property tax, forest land—Operability classes. [Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-535, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-600 Timber excise tax—Statement of purpose. [Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-600, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-615 Timber excise tax—Stumpage values—Reporting of private stumpage sales to the department. [Statutory Authority: RCW 82.32.300 and 84.33.096. 95-14-086, § 458-40-615, filed 6/30/95, effective 7/1/95; 92-18-030, § 458-40-615, filed 8/26/92, effective 9/26/92.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-620 Timber excise tax—Tax liability—Harvester as taxpayer, harvester defined. [Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-620, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-622 Timber excise tax—Tax liability—Government entity as harvester. [Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-622, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-624 Timber excise tax—Tax liability—Reclassified reforestation lands. [Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-624, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-630 Timber excise tax—Stumpage value—General definition. [Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-630, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-632 Timber excise tax—Taxable stumpage value—Private timber. [Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-632, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-634 Timber excise tax—Taxable stumpage value—Small harvester option. [Statutory Authority: RCW 82.32.330, 84.33.096 and 84.33.120. 96-02-056, § 458-40-634, filed 12/29/95, effective 1/29/96. Statutory Authority: RCW 82.33.096. 93-14-090, § 458-40-634, filed 7/1/93, effective 8/1/93. Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-634, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-636 Timber excise tax—Taxable stumpage value—Public timber. [Statutory Authority: RCW 84.33.096 and 82.32.300. 90-14-033, § 458-40-636, filed 6/29/90, effective 7/30/90. Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-636, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-682 Timber excise tax—Volume harvested—Sample scaling. [Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-682, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-684 Timber excise tax—Volume harvested—Conversions to Scribner Decimal C Scale for Western Washington. [Statutory Authority: RCW 82.32.300 and 84.33.096. 95-14-086, § 458-40-684, filed 6/30/95, effective 7/1/95. Statutory Authority: RCW 84.33.091, 84.32.300 [82.32.300] and 84.33.096. 92-14-083, § 458-40-684, filed 6/29/92, effective 7/1/92. Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-684, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-686 Timber excise tax—Volume harvested—Conversions to Scribner Decimal C Scale for Eastern Washington. [Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-686, filed 12/31/86.] Repealed

by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.

458-40-690

Timber excise tax—Credit for property tax. [Statutory Authority: RCW 82.32.300 and 84.33.096. 00-24-068, § 458-40-690, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.330, 84.33.096 and 84.33.091. 97-02-069, § 458-40-690, filed 12/31/96, effective 1/1/97. Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-690, filed 12/31/86.] Repealed by 06-16-094, filed 7/31/06, effective 8/31/06. Statutory Authority: RCW 82.32.330, 82.01.060(1), and 84.33.096.

WAC 458-40-530 Property tax, forest land—Land grades—Operability classes. (1) **Introduction.** RCW 84.33.120 requires that the department of revenue annually adjust and certify forest land values to be used by county assessors in preparing assessment rolls. These values are based upon land grades and operability classes. The assessors use maps that provide the land grades and operability classes for forest land in Washington.

This rule explains how the land grades and operability classes provided in the maps used by the assessors were established. The forest land values are annually updated in WAC 458-40-540. For the purposes of this rule and WAC 458-40-540, the term "forest land" is synonymous with timberland and means all land in any contiguous ownership of twenty or more acres which is primarily devoted to and used for growing and harvesting timber and means land only.

(2) **Land grades.** The land grades are established based upon timber species and site index. "Site index (plural site indices)" is the productive quality of forest land, determined by the total height reached by the dominant and codominant trees on a particular site at a given age.

WASHINGTON STATE PRIVATE FOREST LAND GRADES

SPECIES	SITE INDEX	LAND GRADE	
WESTSIDE			
Douglas Fir	136 ft. and over	1	
	118-135 ft.	2	
	99-117 ft.	3	
	84-98 ft.	4	
	under 84 ft.	5	
Western Hemlock	136 ft. and over	1	
	116-135 ft.	2	
	98-115 ft.	3	
	83-97 ft.	4	
	68-82 ft.	5	
Red Alder	under 68 ft.	6	
	117 ft. and over	6	
	under 117 ft.	7	
	Marginal forest productivity	7 or 8	*2
	Noncommercial	8	
EASTSIDE			
Douglas Fir	140 ft. and over	3	*1
	& 120-139 ft.	4	*1
Ponderosa Pine	96-119 ft.	5	*1
	70-95 ft.	6	*1
	under 70 ft.	7	*1
	Marginal forest productivity	7 or 8	*2
	Noncommercial	8	

*1 These are the site indices for one hundred percent stocked stands. Stands with lower stocking levels would require higher site indices to occur in the same land grade.

*2 Marginal forest productivity is land grade 7 operability class 3, in the following townships. All marginal forest productivity in other townships is land grade 8.

WESTERN WASHINGTON

Whatcom County - all townships east of Range 6 East, inclusive.

Skagit County - all townships east of Range 7 East, inclusive.

Snohomish County - all townships east of Range 8 East, inclusive.

King County - all townships east of Range 9 East, inclusive.

Pierce County - T15N, R7E; T16N, R7E; T17N, R7E; T18N, R7E; T19N, R9E; T19N, R10E; T19N, R11E.

EASTERN WASHINGTON

Chelan County - all townships west of Range 17 East, inclusive.

Kittitas County - all townships west of Range 15 East, inclusive.

Yakima County - all townships west of Range 14 East, inclusive.

(3) **Operability classes.** Operability classes are established according to intrinsic characteristics of soils and geomorphic features. The criteria for each class apply statewide.

(a) **Class 1-Favorable.** Stable soils that slope less than thirty percent. Forest operations do not significantly impact soil productivity and soil erosion. Forest operations, such as roading and logging, are carried out with minimal limitations.

(b) **Class 2-Average.** Stable soils that slope less than thirty percent, but on which significant soil erosion, compaction, and displacement may occur as a result of forest operations.

(c) **Class 3-Difficult.** Soils with one or both of the following characteristics:

(i) Stable soils that slope between thirty and sixty-five percent; and

(ii) Soils that slope between zero and sixty-five percent, but display evidence that rapid mass movement may occur as a direct result of forest operations.

(d) **Class 4-Extreme.** All soils that slope more than sixty-five percent.

(e) **Variations.** Unique conditions found in any one geographic area may impact forest operations to a greater degree than the above classes permit. With documented evidence, the department of revenue may place the soil in a more severe class.

[Statutory Authority: RCW 82.32.300 and 84.33.096. 00-24-068, § 458-40-530, filed 12/1/00, effective 1/1/01. Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-530, filed 12/31/86.]

WAC 458-40-540 Forest land values—2007. The forest land values, per acre, for each grade of forest land for the 2007 assessment year are determined to be as follows:

LAND GRADE	OPERABILITY CLASS	2007 VALUES ROUNDED
1	1	\$201
	2	199
	3	188
	4	136
2	1	169
	2	164
	3	157
	4	113
3	1	133
	2	129
	3	128
	4	97
4	1	101
	2	98
	3	97
	4	75
5	1	74
	2	67
	3	66
	4	45
6	1	37
	2	34
	3	34
	4	32
7	1	17
	2	17
	3	16
	4	16
8		1

[Statutory Authority: RCW 82.01.060(2), 82.32.300, 84.33.096, and 84.33.091. 07-02-038, § 458-40-540, filed 12/26/06, effective 1/1/07. Statutory Authority: RCW 82.01.060(2), 82.32.300, 84.33.096, and 84.33.140. 06-02-006, § 458-40-540, filed 12/22/05, effective 1/1/06; 05-02-037, § 458-40-540, filed 12/30/04, effective 1/1/05. Statutory Authority: RCW 82.32.-300 and 84.33.140. 04-02-018, § 458-40-540, filed 12/30/03, effective 1/1/04. Statutory Authority: RCW 82.01.060(2), 82.32.300, 84.33.096, 84.33.091, and 84.33.140. 03-02-004, § 458-40-540, filed 12/19/02, effective 1/1/03. Statutory Authority: RCW 82.32.300, 84.33.096, 84.33.091 and 84.33.120. 02-02-033, § 458-40-540, filed 12/24/01, effective 1/1/02. Statutory Authority: RCW 82.32.300, 84.33.096 and 84.33.120. 01-02-018, § 458-40-540, filed 12/21/00, effective 1/1/01; 00-02-018, § 458-40-540, filed 12/27/99, effective 1/1/00; 99-02-030, § 458-40-540, filed 12/30/98, effective 1/1/99; 98-02-014, § 458-40-540, filed 12/30/97, effective 1/1/98; 97-07-041, § 458-40-540, filed 3/14/97, effective 4/14/97; 96-02-055, § 458-40-540, filed 12/29/95, effective 1/1/96. Statutory Authority: RCW 82.32.300 and 84.33.120. 95-02-039, § 458-40-540, filed 12/30/94, effective 1/1/95. Statutory Authority: RCW 82.32.300. 94-02-046, § 458-40-540, filed 12/30/93, effective 1/1/94. Statutory Authority: RCW 84.33.120. 93-02-024, § 458-40-540, filed 12/31/92, effective 1/1/93; 91-24-026, § 458-40-540, filed 11/26/91, effective 1/1/92. Statutory Authority: RCW 84.33.120 and 84.08.010. 90-24-012, § 458-40-540, filed 11/27/90, effective 12/28/90; 89-23-095, § 458-40-540, filed 11/21/89, effective 12/22/89. Statutory Authority: RCW 84.33.120 and 84.33.130. 88-23-055 (Order FT-88-3), § 458-40-540, filed 11/15/88; 87-22-068 (Order FT-87-3), § 458-40-540, filed 11/4/87. Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-540, filed 12/31/86.]

WAC 458-40-610 Timber excise tax—Definitions. (1)

Introduction. The purpose of WAC 458-40-610 through 458-40-690 is to prescribe the policies and procedures for the taxation of timber harvested from public and private forest lands as required by RCW 84.33.010 through 84.33.096.

Unless the context clearly requires otherwise, the definitions in this rule apply to WAC 458-40-610 through 458-40-

690. In addition to the definitions found in this rule, definitions of technical forestry terms may be found in *The Dictionary of Forestry*, 1998, edited by John A. Helms, and published by the Society of American Foresters.

(2) **Codominant trees.** Trees whose crowns form the general level of the main canopy and receive full light from above, but comparatively little light from the sides.

(3) **Competitive sales.** The offering for sale of timber which is advertised to the general public for sale at public auction under terms wherein all qualified potential buyers have an equal opportunity to bid on the sale, and the sale is awarded to the highest qualified bidder. The term "competitive sales" includes making available to the general public permits for the removal of forest products.

(4) **Cord measurement.** A measure of wood with dimensions of 4 feet by 4 feet by 8 feet (128 cubic feet).

(5) **Damaged timber.** Timber where the stumpage values have been materially reduced from the values shown in the applicable stumpage value tables due to damage resulting from fire, blow down, ice storm, flood, or other sudden unforeseen causes.

(6) **Dominant trees.** Trees whose crowns are higher than the general level of the main canopy and which receive full light from the sides as well as from above.

(7) **Firewood.** Commercially traded firewood is considered scaled utility log grade as defined in subsection (13) of this section.

(8) **Harvest unit.** An area of timber harvest, defined and mapped by the harvester before harvest, having the same stumpage value area, hauling distance zone, harvest adjustments, harvester, and harvest identification. The harvest identification may be a department of natural resources forest practice application number, public agency harvesting permit number, public sale contract number, or other unique identifier assigned to the timber harvest area prior to harvest operations. A harvest unit may include more than one section, but harvest unit may not overlap a county boundary.

(9) **Harvester.** Every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use. The term "harvester" does not include persons performing under contract the necessary labor or mechanical services for a harvester. In cases where the identity of the harvester is in doubt, the department of revenue will consider the owner of the land from which the timber was harvested to be the harvester and the one liable for paying the tax.

The definition above applies except when the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein so fells, cuts, or takes timber for sale or for commercial or industrial use. When a governmental entity described above fells, cuts, or takes timber, the harvester is the first person, other than another governmental entity as described above, acquiring title to or a possessory interest in such timber.

(10) **Harvesting and marketing costs.** Only those costs directly and exclusively associated with harvesting merchantable timber from the land and delivering it to the buyer. The term includes the costs of piling logging residue on site,

and costs to abate extreme fire hazard when required by the department of natural resources. Harvesting and marketing costs do not include the costs of other consideration (for example, reforestation, permanent road construction), treatment to timber or land that is not a necessary part of a commercial harvest (for example, precommercial thinning, brush clearing, land grading, stump removal), costs associated with maintaining the option of land conversion (for example, county fees, attorney fees, specialized site assessment or evaluation fees), or any other costs not directly and exclusively associated with the harvesting and marketing of merchantable timber. The actual harvesting and marketing costs must be used in all instances where documented records are available. When the taxpayer is unable to provide documented proof of such costs, or when harvesting and marketing costs can not be separated from other costs, the deduction for harvesting and marketing costs is thirty-five percent of the gross receipts from the sale of the logs.

(11) **Hauling distance zone.** An area with specified boundaries as shown on the statewide stumpage value area and hauling distance zone maps contained in WAC 458-40-640, having similar accessibility to timber markets.

(12) **Legal description.** A description of an area of land using government lots and standard general land office subdivision procedures. If the boundary of the area is irregular, the physical boundary must be described by metes and bounds or by other means that will clearly identify the property.

(13) **Log grade.** Those grades listed in the "*Official Log Scaling and Grading Rules*" developed and authored by the Northwest Log Rules Advisory Group (Advisory Group). "Utility grade" means logs that do not meet the minimum requirements of peeler or sawmill grades as defined in the "*Official Log Scaling and Grading Rules*" published by the Advisory Group but are suitable for the production of firm useable chips to an amount of not less than fifty percent of the gross scale; and meeting the following minimum requirements:

- (a) Minimum gross diameter—two inches.
- (b) Minimum gross length—twelve feet.
- (c) Minimum volume—ten board feet net scale.
- (d) Minimum recovery requirements—one hundred percent of adjusted gross scale in firm useable chips.

(14) **Lump sum sale.** Also known as a cash sale or an installment sale, it is a sale of timber where all the volume offered is sold to the highest bidder.

(15) **MBF.** One thousand board feet measured in Scribner Decimal C Log Scale Rule.

(16) **Noncompetitive sales.** Sales of timber in which the purchaser has a preferential right to purchase the timber or a right of first refusal.

(17) **Other consideration.** Value given in lieu of cash as payment for stumpage, such as improvements to the land that are of a permanent nature. Some examples of permanent improvements are as follows: Construction of permanent roads; installation of permanent bridges; stockpiling of rock intended to be used for construction or reconstruction of permanent roads; installation of gates, cattle guards, or fencing; and clearing and reforestation of property.

(18) **Permanent road.** A road built as part of the harvesting operation which is to have a useful life subsequent to the completion of the harvest.

(19) **Private timber.** All timber harvested from privately owned lands.

(20) **Public timber.** Timber harvested from federal, state, county, municipal, or other government owned lands.

(21) **Remote island.** An area of land which is totally surrounded by water at normal high tide and which has no bridge or causeway connecting it to the mainland.

(22) **Scale sale.** A sale of timber in which the amount paid for timber in cash and/or other consideration is the arithmetic product of the actual volume harvested and the unit price at the time of harvest.

(23) **Small harvester.** A harvester who harvests timber from privately or publicly owned forest land in an amount not exceeding two million board feet in a calendar year.

(24) **Species.** A grouping of timber based on biological or physical characteristics. In addition to the designations of species or subclassifications defined in Agriculture Handbook No. 451 Checklist of United States Trees (native and naturalized) found in the state of Washington, the following are considered separate species for the purpose of harvest classification used in the stumpage value tables:

(a) **Other conifer.** All conifers not separately designated in the stumpage value tables. See WAC 458-40-660.

(b) **Other hardwood.** All hardwoods not separately designated in the stumpage value tables. See WAC 458-40-660.

(c) **Special forest products.** The following are considered to be separate species of special forest products: Christmas trees (various species), posts (various species), western redcedar flatsawn and shingle blocks, western redcedar shake blocks and boards.

(d) **Chipwood.** All timber processed to produce chips or chip products delivered to an approved chipwood destination that has been approved in accordance with the provisions of WAC 458-40-670 or otherwise reportable in accordance with the provisions of WAC 458-40-670.

(e) **Small logs.** All conifer logs harvested in stumpage value areas 6 or 7 generally measuring seven inches or less in scaling diameter, purchased by weight measure at designated small log destinations that have been approved in accordance with the provisions of WAC 458-40-670. Log diameter and length is measured in accordance with the Eastside Log Scaling Rules developed and authored by the Northwest Log Rules Advisory Group, with length not to exceed twenty feet.

(f) **Sawlog.** For purposes of timber harvest in stumpage value areas 6 and 7, a sawlog is a log having a net scale of not less than 33 1/3% of gross scale, nor less than ten board feet and meeting the following minimum characteristics: Gross scaling diameter of five inches and a gross scaling length of eight feet.

(g) **Piles.** All logs sold for use or processing as piles that meet the specifications described in the most recently published edition of the *Standard Specification for Round Timber Piles (Designation: D 25)* of the American Society for Testing and Materials.

(h) **Poles.** All logs sold for use or processing as poles that meet the specifications described in the most recently published edition of the *National Standard for Wood Poles—Specifications and Dimensions (ANSI 05.1)* of the American National Standards Institute.

(25) **Stumpage.** Timber, having commercial value, as it exists before logging.

(26) **Stumpage value.** The true and fair market value of stumpage for purposes of immediate harvest.

(27) **Stumpage value area (SVA).** An area with specified boundaries which contains timber having similar growing, harvesting and marketing conditions.

(28) **Taxable stumpage value.** The value of timber as defined in RCW 84.33.035(7), and this chapter. Except as provided below for small harvesters and public timber, the taxable stumpage value is the appropriate value for the species of timber harvested as set forth in the stumpage value tables adopted under this chapter.

(a) **Small harvester option.** Small harvesters may elect to calculate the excise tax in the manner provided by RCW 84.33.073 and 84.33.074. The taxable stumpage value must be determined by one of the following methods as appropriate:

(i) **Sale of logs.** Timber which has been severed from the stump, bucked into various lengths and sold in the form of logs has a taxable stumpage value equal to the actual gross receipts for the logs, less any costs associated with harvesting and marketing the timber.

(ii) **Sale of stumpage.** When standing timber is sold and harvested within twenty-four months of the date of sale, its taxable stumpage value is the actual purchase price in cash and/or other consideration for the stumpage for the most recent sale prior to harvest. If a person purchases stumpage, harvests the timber more than twenty-four months after purchase of the stumpage, and chooses to report under the small harvester option, the taxable stumpage value is the actual gross receipts for the logs, less any costs associated with harvesting and marketing the timber. See WAC 458-40-626 for timing of tax liability.

(b) **Public timber.** The taxable stumpage value for public timber sales is determined as follows:

(i) **Competitive sales.** The taxable stumpage value is the actual purchase price in cash and/or other consideration. The value of other consideration is the fair market value of the other consideration; provided that if the other consideration is permanent roads, the value is the appraised value as appraised by the seller. If the seller does not provide an appraised value for roads, the value is the actual costs incurred by the purchaser for constructing or improving the roads. Other consideration includes additional services required from the stumpage purchaser for the benefit of the seller when these services are not necessary for the harvesting or marketing of the timber. For example, under a single stumpage sale's contract, when the seller requires road abandonment (as defined in WAC 222-24-052(3)) of constructed or reconstructed roads which are necessary for harvesting and marketing the timber, the construction and abandonment costs are not taxable. Abandonment activity on roads that exist prior to a stumpage sale is not necessary for harvesting and marketing the purchased timber and those costs are taxable.

(ii) **Noncompetitive sales.** The taxable stumpage value is determined using the department of revenue's stumpage value tables as set forth in this chapter. Qualified harvesters may use the small harvester option.

(iii) **Sale of logs.** The taxable stumpage value for public timber sold in the form of logs is the actual purchase price for the logs in cash and/or other consideration less appropriate

deductions for harvesting and marketing costs. Refer above for a definition of "harvesting and marketing costs."

(iv) **Defaulted sales and uncompleted contracts.** In the event of default on a public timber sale contract, wherein the taxpayer has made partial payment for the timber but has not removed any timber, no tax is due. If part of the sale is logged and the purchaser fails to complete the harvesting, taxes are due on the amount the purchaser has been billed by the seller for the volume removed to date. See WAC 458-40-628 for timing of tax liability.

(29) **Thinning.** Timber removed from a harvest unit located in stumpage value area 1, 2, 3, 4, 5, or 10:

(a) When the total volume removed is less than forty percent of the total merchantable volume of the harvest unit prior to harvest; and

(b) The harvester leaves a minimum of one hundred undamaged, evenly spaced, dominant or codominant trees per acre of a commercial species or combination thereof.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 84.33.096. 06-17-186, § 458-40-610, filed 8/23/06, effective 9/23/06; 06-02-007, § 458-40-610, filed 12/22/05, effective 1/22/06; 05-08-070, § 458-40-610, filed 3/31/05, effective 5/1/05. Statutory Authority: RCW 82.32.330 and 84.33-096. 02-21-005, § 458-40-610, filed 10/3/02, effective 11/3/02; 00-24-068, § 458-40-610, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.330, 84.33.096 and 84.33.091. 96-02-054, § 458-40-610, filed 12/29/95, effective 1/1/96. Statutory Authority: RCW 82.32.330 and 84.33-096. 95-18-026, § 458-40-610, filed 8/25/95, effective 8/25/95. Statutory Authority: RCW 84.33.096 and 82.32.300. 90-14-033, § 458-40-610, filed 6/29/90, effective 7/30/90. Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-610, filed 12/31/86.]

WAC 458-40-626 Timber excise tax—Tax liability—Private timber, tax due when timber harvested. (1) **Introduction.** For purposes of determining the proper calendar quarter in which the harvester is to pay tax on timber harvested from private land the tax is due and payable on the last day of the month following the end of the calendar quarter in which the timber was harvested.

(2) **Personal use of harvested timber by landowner.** A landowner harvesting timber for commercial or industrial use is subject to the timber excise tax upon the value of harvested timber. See RCW 84.33.041, 84.33.035 and 84.33.073. A landowner cutting timber for that landowner's own personal use is not subject to the timber excise tax.

A landowner selling, bartering, or trading timber is making commercial use of that timber. A landowner providing that individual's own business with timber is making commercial or industrial use of that timber. For example, a logging contractor using timber by-products for hog fuel has made industrial use of that timber. An individual engaged in the construction industry using lumber from that landowner's timber to build a structure meant for sale by that individual or that individual's business has also made industrial use of the timber. On the other hand, a landowner makes personal use of timber when that individual uses the timber, a portion of the cut timber, or a by-product from the timber as:

(a) Firewood in that individual's stove or fireplace;

(b) Lumber for that individual's personal residence, garage or storage structure;

(c) Lumber for a fence around that individual's personal residence or private property not used for commercial purposes; or

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(d) Sawdust or shavings for that individual's garden or yard.

[Statutory Authority: RCW 82.32.300 and 84.33.096. 00-24-068, § 458-40-626, filed 12/1/00, effective 1/1/01. Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-626, filed 12/31/86.]

WAC 458-40-628 Timber excise tax—Tax liability—Public timber, lump sum and scale sales. For purposes of determining the proper quarter in which the harvester is to pay taxes on timber harvested from public land, the taxes due under RCW 84.33.041 are due and payable as follows:

(1) **Lump-sum sale.** The tax is due and payable on the last day of the month following the quarter in which the purchaser is billed by the seller for the timber: Provided, That if payments are made to the seller before any harvest, road construction or other work has begun on the timber sale contract, payment of taxes may be postponed until the quarter in which harvest or other contract work begins. In the quarter that harvest commences, taxes are due and payable on all billings accrued by the buyer in all prior quarters as well as the current quarter.

(2) **Scale sale.** The tax is due and payable on the last day of the month following the calendar quarter in which the purchaser is billed by the seller for the timber: Provided, That if payments are made to the seller before any harvest, road construction or other work has begun on the timber sale contract, payment of taxes may be postponed until the quarter in which harvest or other contract work begins. In the quarter that harvest commences, taxes are due and payable on all billings accrued by the buyer in all prior quarters as well as the current quarter. Indexing or escalation amounts must be included in the quarter in which they apply.

(3) **Other considerations.** Tax due on considerations other than cash is due and payable the first quarter of harvest, or the first quarter the costs are incurred, but not later than the last quarter of harvest: Provided, That if effective road credits (United States Forest Service Sales) are used as payment for stumpage, the tax is due in the quarter in which the road credits are applied as payment.

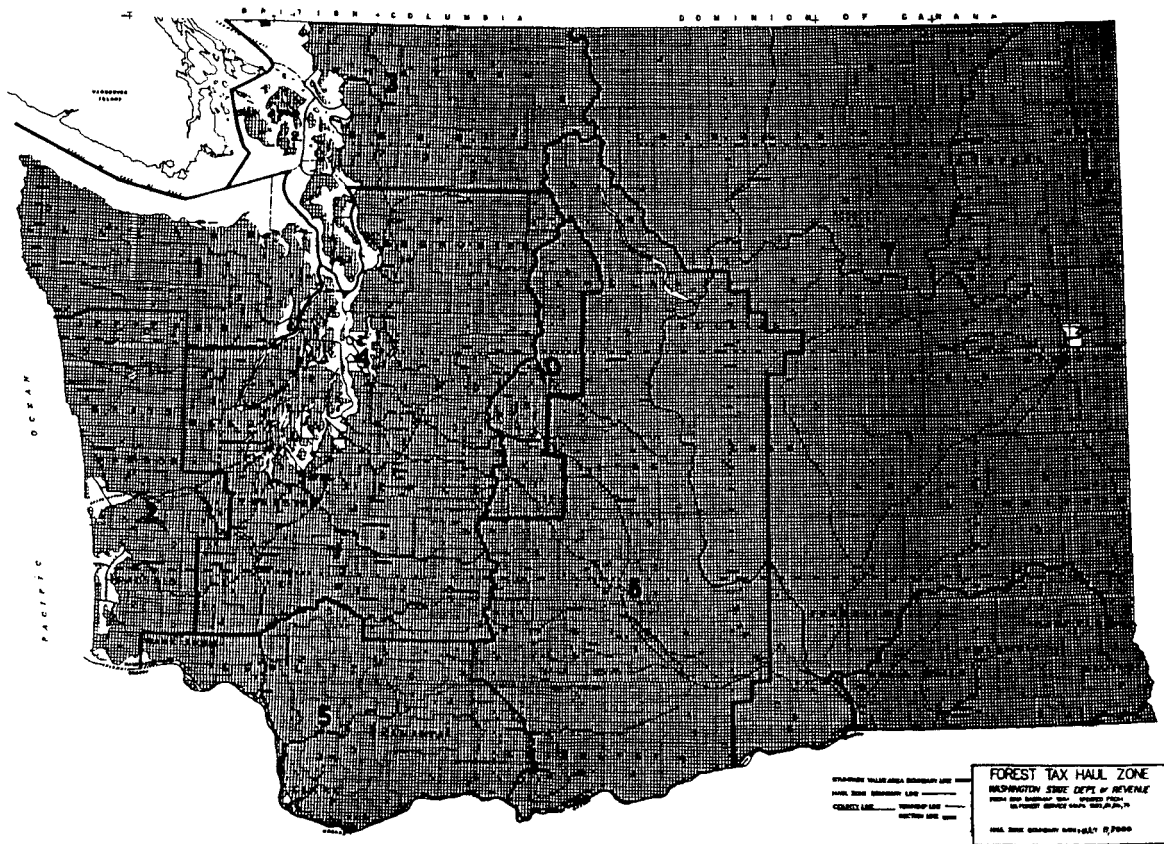
[Statutory Authority: RCW 82.32.300 and 84.33.096. 00-24-068, § 458-40-628, filed 12/1/00, effective 1/1/01; 90-02-049, § 458-40-628, filed 12/29/89, effective 1/29/90. Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-628, filed 12/31/86.]

WAC 458-40-640 Timber excise tax—Stumpage value area (map). The stumpage value area and hauling distance zone map contained in this rule must be used to determine the proper stumpage value table and haul zone to be used in calculating the taxable stumpage value of timber harvested from private land.

WAC 458-40-640 Stumpage value area and hauling zone—
Map

Harvesters may obtain a larger scale map by writing to the Washington State Department of Revenue, Special Programs Division, Forest Tax Section, Post Office Box 47472, Olympia, Washington 98504-7472; or by calling 1-800-548-8829.

[Title 458 WAC—p. 519]



[Statutory Authority: RCW 82.32.300, 82.01.060(2), 84.33.096, 84.33.091. 04-14-032, § 458-40-640, filed 6/29/04, effective 7/30/04. Statutory Authority: RCW 82.32.300 and 84.33.096. 01-24-029, § 458-40-640, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 82.32.300, 84.33.096 and 84.33.091. 01-02-019, § 458-40-640, filed 12/21/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096. 95-14-086, § 458-40-640, filed 6/30/95, effective 7/1/95; 95-02-037, § 458-40-640, filed 12/30/94, effective 1/1/95; 90-14-033, § 458-40-640, filed 6/29/90, effective 7/30/90. Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-640, filed 12/31/86.]

WAC 458-40-650 Timber excise tax—Timber quality codes defined. The timber quality code numbers for each species of timber shown in the stumpage value tables contained in this chapter are defined as follows:

**TABLE 1—Timber Quality Code Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 10**

Species	Quality Code Number	Log grade specifications ¹
Douglas-fir	1	Over 50% No. 2 Sawmill and better log grade, and 15% and over Special Mill, No. 1 Sawmill, and better log grade.
Douglas-fir	2	Over 50% No. 2 Sawmill and better log grade, and less than 15% Special Mill, No. 1 Sawmill, and better log grade.
Douglas-fir	3	25-50% inclusive No. 2 Sawmill and better log grade.
Douglas-fir	4	Less than 25% No. 2 Sawmill and better log grade.
Western Redcedar and Alaska-Cedar	1	All log grades.

Species	Quality Code Number	Log grade specifications ¹
Western Hemlock, True Firs, Other Conifer, and Spruce	1	Over 50% No. 2 Sawmill and better log grade, and 5% and over Special Mill, No. 1 Sawmill and better log grade.
Western Hemlock, True Firs, Other Conifer, and Spruce	2	Over 50% No. 2 Sawmill and better log grade, and less than 5% Special Mill, No. 1 Sawmill and better log grade.
Western Hemlock, True Firs, Other Conifer, and Spruce	3	25-50% inclusive No. 2 Sawmill and better log grade.
Western Hemlock, True Firs, Other Conifer, and Spruce	4	Less than 25% No. 2 Sawmill and better log grade.
Ponderosa Pine	1	Less than 10 logs 16 feet long per thousand board feet Scribner scale.
Ponderosa Pine	2	10 or more logs 16 feet long per thousand board feet Scribner scale.
Lodgepole Pine	1	All log grades.
Red Alder	1	40% and over No. 3 Sawmill and better log grades.
Red Alder	2	Less than 40% No. 3 Sawmill and better log grades.

Species	Quality Code Number	Log grade specifications ¹
Black Cottonwood and other hardwoods	1	All log grades.
Chipwood	1	All logs that comply with the definition of chipwood in WAC 458-40-610.
Piles	1	All logs that comply with the definition of piles in WAC 458-40-610.
Poles	1	All logs that comply with the definition of poles in WAC 458-40-610.

¹ For information on approved log scaling and grading methods see WAC 458-40-680.

**TABLE 2—Timber Quality Code Table
Stumpage Value Areas 6 and 7**

Species	Quality Code Number	Log grade specifications
Ponderosa Pine	1	Less than 10 logs 16 feet long per thousand board feet Scribner scale.
Ponderosa Pine	2	10 or more logs 16 feet long per thousand board feet Scribner scale.
All conifers other than Ponderosa Pine	1	All log sizes.
Hardwoods	1	Sawlogs only.
Small logs	1	All conifer logs that comply with the definition of small logs in WAC 458-40-610.
Chipwood	1	All logs that comply with the definition of chipwood in WAC 458-40-610.
Piles	1	All logs that comply with the definition of piles in WAC 458-40-610.
Poles	1	All logs that comply with the definition of poles in WAC 458-40-610.

[Statutory Authority: RCW 82.32.300, 84.33.096, 84.33.091, 82.32.060, and 84.33.077. 00-19-067, § 458-40-650, filed 9/19/00, effective 1/1/01. Statutory Authority: RCW 82.32.330, 84.33.096 and 84.33.091. 96-02-054, § 458-40-650, filed 12/29/95, effective 1/1/96. Statutory Authority: RCW 82.32.300 and 84.33.096. 95-14-084, § 458-40-650, filed 6/30/95, effective 7/31/95. Statutory Authority: RCW 84.33.091, 84.32.300 [82.32.300] and 84.33.096. 94-14-048, § 458-40-650, filed 6/30/94, effective 7/1/94; 92-14-083, § 458-40-650, filed 6/29/92, effective 7/1/92; 92-02-067, § 458-40-650, filed 12/31/91, effective 1/1/92. Statutory Authority: RCW 84.33.091 and chapter 84.33 RCW. 88-14-032 (Order FT-88-2), § 458-40-650, filed 6/30/88. Statutory Authority: Chapter 84.33 RCW. 87-14-042 (Order 87-2), § 458-40-650, filed 6/30/87; 87-02-023 (Order 86-4), § 458-40-650, filed 12/31/86.]

WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) Introduction. This rule provides stumpage value tables and stumpage value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) Stumpage value tables. The following stumpage value tables are used to calculate the taxable value of stumpage harvested from January 1 through June 30, 2007:

**TABLE 1—Proposed Stumpage Value Table
Stumpage Value Area 1
January 1 through June 30, 2007**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$612	\$605	\$598	\$591	\$584
		2	510	503	496	489	482
		3	473	466	459	452	445
		4	468	461	454	447	440
Western Redcedar ⁽²⁾	RC	1	631	624	617	610	603
Western Hemlock ⁽³⁾	WH	1	339	332	325	318	311
		2	330	323	316	309	302
		3	317	310	303	296	289
		4	315	308	301	294	287
Red Alder	RA	1	356	349	342	335	328
		2	211	204	197	190	183
Black Cottonwood	BC	1	69	62	55	48	41
Other Hardwood	OH	1	177	170	163	156	149
Douglas-Fir Poles & Piles	DFL	1	786	779	772	765	758
Western Redcedar Poles	RCL	1	1383	1376	1369	1362	1355
Chipwood ⁽⁴⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁵⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

(2) Includes Alaska-Cedar.

(3) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

(4) Stumpage value per ton.

(5) Stumpage value per cord.

(6) Stumpage value per 8 lineal feet or portion thereof.

(7) Stumpage value per lineal foot.

**TABLE 2—Proposed Stumpage Value Table
Stumpage Value Area 2
January 1 through June 30, 2007**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$612	\$605	\$598	\$591	\$584
		2	522	515	508	501	494
		3	502	495	488	481	474
		4	502	495	488	481	474
Western Redcedar ⁽²⁾	RC	1	631	624	617	610	603
Western Hemlock ⁽³⁾	WH	1	351	344	337	330	323
		2	351	344	337	330	323
		3	351	344	337	330	323
		4	335	328	321	314	307
Red Alder	RA	1	356	349	342	335	328
		2	211	204	197	190	183
Black Cottonwood	BC	1	69	62	55	48	41

**TABLE 2—Proposed Stumpage Value Table
Stumpage Value Area 2**

January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Other Hardwood	OH	1	177	170	163	156	149
Douglas-Fir Poles & Piles	DFL	1	786	779	772	765	758
Western Redcedar Poles	RCL	1	1383	1376	1369	1362	1355
Chipwood ⁽⁴⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks ⁽⁵⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.⁽²⁾ Includes Alaska-Cedar.⁽³⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."⁽⁴⁾ Stumpage value per ton.⁽⁵⁾ Stumpage value per cord.⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.⁽⁷⁾ Stumpage value per lineal foot.**TABLE 3—Proposed Stumpage Value Table
Stumpage Value Area 3**

January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$612	\$605	\$598	\$591	\$584
		2	519	512	505	498	491
		3	489	482	475	468	461
		4	429	422	415	408	401
Western Redcedar ⁽³⁾	RC	1	631	624	617	610	603
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	346	339	332	325	318
		2	346	339	332	325	318
		3	346	339	332	325	318
		4	336	329	322	315	308
Red Alder	RA	1	356	349	342	335	328
		2	211	204	197	190	183
Black Cottonwood	BC	1	69	62	55	48	41
Other Hardwood	OH	1	177	170	163	156	149
Douglas-Fir Poles & Piles	DFL	1	786	779	772	765	758
Western Redcedar Poles	RCL	1	1383	1376	1369	1362	1355
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

[Title 458 WAC—p. 522]

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.⁽²⁾ Includes Western Larch.⁽³⁾ Includes Alaska-Cedar.⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."⁽⁵⁾ Stumpage value per ton.⁽⁶⁾ Stumpage value per cord.⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.⁽⁸⁾ Stumpage value per lineal foot.**TABLE 4—Proposed Stumpage Value Table
Stumpage Value Area 4**

January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$612	\$605	\$598	\$591	\$584
		2	546	539	532	525	518
		3	502	495	488	481	474
		4	502	495	488	481	474
Lodgepole Pine	LP	1	208	201	194	187	180
Ponderosa Pine	PP	1	285	278	271	264	257
		2	204	197	190	183	176
Western Redcedar ⁽³⁾	RC	1	631	624	617	610	603
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	339	332	325	318	311
		2	338	331	324	317	310
		3	338	331	324	317	310
		4	336	329	322	315	308
Red Alder	RA	1	356	349	342	335	328
		2	211	204	197	190	183
Black Cottonwood	BC	1	69	62	55	48	41
Other Hardwood	OH	1	177	170	163	156	149
Douglas-Fir Poles & Piles	DFL	1	786	779	772	765	758
Western Redcedar Poles	RCL	1	1383	1376	1369	1362	1355
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.⁽²⁾ Includes Western Larch.⁽³⁾ Includes Alaska-Cedar.⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."⁽⁵⁾ Stumpage value per ton.⁽⁶⁾ Stumpage value per cord.⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.⁽⁸⁾ Stumpage value per lineal foot.

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**TABLE 5—Proposed Stumpage Value Table
Stumpage Value Area 5**
January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$661	\$654	\$647	\$640	\$633
		2	513	506	499	492	485
		3	488	481	474	467	460
		4	488	481	474	467	460
Lodgepole Pine	LP	1	208	201	194	187	180
Ponderosa Pine	PP	1	285	278	271	264	257
		2	204	197	190	183	176
Western Redcedar ⁽³⁾	RC	1	631	624	617	610	603
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	339	332	325	318	311
		2	336	329	322	315	308
		3	336	329	322	315	308
		4	327	320	313	306	299
Red Alder	RA	1	356	349	342	335	328
		2	211	204	197	190	183
Black Cottonwood	BC	1	69	62	55	48	41
Other Hardwood	OH	1	177	170	163	156	149
Douglas-Fir Poles & Piles	DFL	1	786	779	772	765	758
Western Redcedar Poles	RCL	1	1383	1376	1369	1362	1355
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

(2) Includes Western Larch.

(3) Includes Alaska-Cedar.

(4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

(5) Stumpage value per ton.

(6) Stumpage value per cord.

(7) Stumpage value per 8 lineal feet or portion thereof.

(8) Stumpage value per lineal foot.

**TABLE 6—Proposed Stumpage Value Table
Stumpage Value Area 6**
January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$361	\$354	\$347	\$340	\$333
Lodgepole Pine	LP	1	208	201	194	187	180
Ponderosa Pine	PP	1	285	278	271	264	257
		2	204	197	190	183	176
Western Redcedar ⁽³⁾	RC	1	489	482	475	468	461

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**TABLE 6—Proposed Stumpage Value Table
Stumpage Value Area 6**
January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
True Firs and Spruce ⁽⁴⁾	WH	1	239	232	225	218	211
Western White Pine	WP	1	281	274	267	260	253
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	489	482	475	468	461
Small Logs ⁽⁵⁾	SML	1	42	41	40	39	38
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCF	1	76	69	62	55	48
LP & Other Posts ⁽⁷⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁸⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁹⁾	DFX	1	0.25	0.25	0.25	0.25	0.25

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

(2) Includes Western Larch.

(3) Includes Alaska-Cedar.

(4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

(5) Stumpage value per ton.

(6) Stumpage value per cord.

(7) Stumpage value per 8 lineal feet or portion thereof.

(8) Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

(9) Stumpage value per lineal foot.

**TABLE 7—Proposed Stumpage Value Table
Stumpage Value Area 7**
January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$400	\$393	\$386	\$379	\$372
Lodgepole Pine	LP	1	278	271	264	257	250
Ponderosa Pine	PP	1	285	278	271	264	257
		2	204	197	190	183	176
Western Redcedar ⁽³⁾	RC	1	489	482	475	468	461
True Firs and Spruce ⁽⁴⁾	WH	1	302	295	288	281	274
Western White Pine	WP	1	281	274	267	260	253
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	489	482	475	468	461
Small Logs ⁽⁵⁾	SML	1	36	35	34	33	32
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCF	1	76	69	62	55	48
LP & Other Posts ⁽⁷⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁸⁾	PX	1	0.25	0.25	0.25	0.25	0.25

[Title 458 WAC—p. 523]

**TABLE 7—Proposed Stumpage Value Table
Stumpage Value Area 7**

January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Other Christmas Trees ⁽⁹⁾	DFX	1	0.25	0.25	0.25	0.25	0.25

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.⁽²⁾ Includes Western Larch.⁽³⁾ Includes Alaska-Cedar.⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."⁽⁵⁾ Stumpage value per ton.⁽⁶⁾ Stumpage value per cord.⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.⁽⁸⁾ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.⁽⁹⁾ Stumpage value per lineal foot.**TABLE 8—Proposed Stumpage Value Table
Stumpage Value Area 10**

January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$598	\$591	\$584	\$577	\$570
		2	532	525	518	511	504
		3	488	481	474	467	460
		4	488	481	474	467	460
Lodgepole Pine	LP	1	208	201	194	187	180
Ponderosa Pine	PP	1	285	278	271	264	257
		2	204	197	190	183	176
Western Redcedar ⁽³⁾	RC	1	617	610	603	596	589
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	325	318	311	304	297
		2	324	317	310	303	296
		3	324	317	310	303	296
		4	322	315	308	301	294
Red Alder	RA	1	342	335	328	321	314
		2	197	190	183	176	169
Black Cottonwood	BC	1	55	48	41	34	27
Other Hardwood	OH	1	163	156	149	142	135
Douglas-Fir Poles & Piles	DFL	1	772	765	758	751	744
Western Redcedar Poles	RCL	1	1369	1362	1355	1348	1341
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.⁽²⁾ Includes Western Larch.⁽³⁾ Includes Alaska-Cedar.⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."⁽⁵⁾ Stumpage value per ton.⁽⁶⁾ Stumpage value per cord.⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.⁽⁸⁾ Stumpage value per lineal foot.

(3) Harvest value adjustments. The stumpage values in subsection (2) of this rule for the designated stumpage value areas are adjusted for various logging and harvest conditions, subject to the following:

(a) No harvest adjustment is allowed for special forest products, chipwood, or small logs.

(b) Conifer and hardwood stumpage value rates cannot be adjusted below one dollar per MBF.

(c) Except for the timber yarded by helicopter, a single logging condition adjustment applies to the entire harvest unit. The taxpayer must use the logging condition adjustment class that applies to a majority (more than 50%) of the acreage in that harvest unit. If the harvest unit is reported over more than one quarter, all quarterly returns for that harvest unit must report the same logging condition adjustment. The helicopter adjustment applies only to the timber volume from the harvest unit that is yarded from stump to landing by helicopter.

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged. Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc.) over 2 acres in size.

(e) A domestic market adjustment applies to timber which meet the following criteria:

(i) **Public timber**—Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska-cedar. (Stat. Ref. - 36 C.F.R. 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Redcedar only. (Stat. Ref. - 50 U.S.C. appendix 2406.1)

(ii) **Private timber**—Harvest of private timber that is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)); a Cooperative Sustained Yield Unit Agreement made pursuant to the act of March 29, 1944 (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The following harvest adjustment tables apply from January 1 through June 30, 2007:

TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 10
 January 1 through June 30, 2007

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of 30 thousand board feet or more per acre.	\$0.00
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	- \$15.00
Class 3	Harvest of less than 10 thousand board feet per acre.	- \$35.00
II. Logging conditions		
Class 1	Ground based logging a majority of the unit using tracked or wheeled vehicles or draft animals.	\$0.00
Class 2	Cable logging a majority of the unit using an overhead system of winch driven cables.	- \$30.00
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	- \$145.00
III. Remote island adjustment:		
	For timber harvested from a remote island	- \$50.00
IV. Thinning		
Class 1	A limited removal of timber described in WAC 458-40-610 (28)	-\$100.00

TABLE 10—Harvest Adjustment Table
Stumpage Value Areas 6 and 7
 January 1 through June 30, 2007

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 8 thousand board feet per acre and less.	- \$8.00
II. Logging conditions		
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-\$20.00
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-\$30.00
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	- \$145.00
Note:	A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.	
III. Remote island adjustment:		
	For timber harvested from a remote island	- \$50.00

TABLE 11—Domestic Market Adjustment

Class	Area Adjustment Applies	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 1:	SVA's 1 through 6, and 10	\$0.00
Class 2:	SVA 7	\$0.00

Note: The adjustment will not be allowed on special forest products.

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(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the department of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

(a) Sudden and unforeseen causes of damage that qualify for consideration of an adjustment include:

(i) Causes listed in RCW 84.33.091; fire, blow down, ice storm, flood.

(ii) Others not listed; volcanic activity, earthquake.

(b) Causes that do not qualify for adjustment include:

(i) Animal damage, root rot, mistletoe, prior logging, insect damage, normal decay from fungi, and pathogen caused diseases; and

(ii) Any damage that can be accounted for in the accepted normal scaling rules through volume or grade reductions.

(c) The department of revenue will not grant adjustments for applications involving timber that has already been harvested but will consider any remaining undisturbed damaged timber scheduled for removal if it is properly identified.

(d) The department of revenue will notify the harvester in writing of approval or denial. Instructions will be included for taking any adjustment amounts approved.

[Statutory Authority: RCW 82.01.060(2), 82.32.300, 84.33.096, and 84.33.091. 07-02-039, § 458-40-660, filed 12/26/06, effective 1/1/07; 06-14-064, § 458-40-660, filed 6/30/06, effective 7/1/06; 06-02-005, § 458-40-660, filed 12/22/05, effective 1/1/06; 05-14-087, § 458-40-660, filed 6/30/05, effective 7/1/05; 05-02-040, § 458-40-660, filed 12/30/04, effective 1/1/05; 04-14-033, § 458-40-660, filed 6/29/04, effective 7/1/04; 04-01-125, § 458-40-660, filed 12/18/03, effective 1/1/04; 03-14-072, § 458-40-660, filed 6/26/03, effective 7/1/03. Statutory Authority: RCW 82.01.060(2), 82.32.300, 84.33.096, 84.33.091, and 84.33.140. 03-02-004, § 458-40-660, filed 12/19/02, effective 1/1/03. Statutory Authority: RCW 82.32.300, 84.33.096, and 84.33.091. 02-14-019, § 458-40-660, filed 6/21/02, effective 7/1/02. Statutory Authority: RCW 82.32.300, 84.33.096, 84.33.091 and 84.33.120. 02-02-033, § 458-40-660, filed 12/24/01, effective 1/1/02. Statutory Authority: RCW 82.32.300, 84.33.096, and 84.33.091. 01-13-105, § 458-40-660, filed 6/20/01, effective 7/1/01; 01-02-020, § 458-40-660, filed 12/21/00, effective 1/1/01. Statutory Authority: RCW 82.32.300, 84.33.096, 84.33.091, 82.32.060, and 84.33.077. 00-19-067, § 458-40-660, filed 9/19/00, effective 1/1/01. Statutory Authority: RCW 82.32.300, 84.33.096 and 84.33.091. 00-14-011, § 458-40-660, filed 6/27/00, effective 7/1/00; 00-02-019, § 458-40-660, filed 12/27/99, effective 1/1/00; 99-14-055, § 458-40-660, filed 6/30/99, effective 7/1/99; 99-02-032, § 458-40-660, filed 12/30/98, effective 1/1/99; 98-14-083, § 458-40-660, filed 6/30/98, effective 7/1/98; 98-02-015, § 458-40-660, filed 12/30/97, effective 1/1/98; 97-14-068, § 458-40-660, filed 6/30/97, effective 7/1/97. Statutory Authority: RCW 82.32.330, 84.33.096 and 84.33.091. 97-02-069, § 458-40-660, filed 12/31/96, effective 1/1/97; 96-14-063, § 458-40-660, filed 6/28/96, effective 7/1/96; 96-02-057, § 458-40-660, filed 12/29/95, effective 1/1/96. Statutory Authority: RCW 82.32.330, 84.33.096 and 84.33.200. 95-18-027, § 458-40-660, filed 8/25/95, effective 9/25/95. Statutory Authority: RCW 82.32.300 and 84.33.096. 95-02-038, § 458-40-660, filed 12/30/94, effective 1/1/95. Statutory Authority: RCW 84.33.091, 84.32.300 [82.32.300] and 84.33.096.

[Title 458 WAC—p. 525]

94-14-048, § 458-40-660, filed 6/30/94, effective 7/1/94; 94-02-047, § 458-40-660, filed 12/30/93, effective 1/1/94; 93-14-051, § 458-40-660, filed 6/30/93, effective 7/1/93; 93-02-025, § 458-40-660, filed 12/31/92, effective 1/1/93; 92-14-083, § 458-40-660, filed 6/29/92, effective 7/1/92; 92-02-067, § 458-40-660, filed 12/31/91, effective 1/1/92. Statutory Authority: RCW 84.33.096 and 82.32.300. 91-14-077, § 458-40-660, filed 6/28/91, effective 7/1/91; 91-09-030, § 458-40-660, filed 4/12/91, effective 5/13/91; 91-02-088, § 458-40-660, filed 12/31/90, effective 1/31/91; 90-14-033, § 458-40-660, filed 6/29/90, effective 7/30/90; 90-02-049, § 458-40-660, filed 12/29/89, effective 1/29/90. Statutory Authority: Chapter 84.33 RCW and RCW 84.33.091. 89-14-051 (Order FT-89-2), § 458-40-660, filed 6/30/89; 89-02-027 (Order FT-88-5), § 458-40-660, filed 12/30/88; 88-14-032 (Order FT-88-2), § 458-40-660, filed 6/30/88; 88-02-026 (Order FT-87-5), § 458-40-660, filed 12/31/87. Statutory Authority: Chapter 84.33 RCW. 87-14-042 (Order 87-2), § 458-40-660, filed 6/30/87; 87-02-023 (Order 86-4), § 458-40-660, filed 12/31/86.]

WAC 458-40-670 Timber excise tax—Chipwood and small log destinations. (1) **Introduction.** This rule describes the procedure by which businesses that process chipwood, chipwood products, and/or small logs can become approved chipwood or small log destinations.

(2) **Chipwood destinations.** Businesses that process logs to produce chips or chip products may be designated as approved "chipwood destinations." Logs delivered to the log yards approved as "chipwood destinations" for the purpose of being chipped may be reported as chipwood and have the volume measured by weight.

(a) The department of revenue will maintain a current list of approved chipwood destinations. This list will be updated as necessary and will be formally reviewed by the department of revenue at least twice a year. A list of approved chipwood destinations is available from the forest tax section of the department of revenue.

(b) A log processor in the business of processing logs to produce chips or chip products that has not been designated as an approved destination may file an application to be listed as an approved chipwood destination. The application should be submitted to the Department of Revenue, Forest Tax Section, P. O. Box 47472, Olympia, Washington 98504-7472. To qualify as an approved destination, not less than ninety percent of the weight volume of logs delivered to and purchased by the log processor for chipping at a specified log yard or location must be processed to produce chips or chip products.

(c) Any applicant seeking administrative review of the department of revenue's decision made under (b) of this subsection may appeal the decision in accordance with WAC 458-20-100 (Appeals, small claims and settlements).

(3) **Logs chipped in the woods.** Logs chipped in the woods may also be reported as chipwood. Volume must be measured in net weight of green chips.

(4) **Other chipwood processing locations.** Logs processed at locations other than those listed on the approved list of chipwood destinations maintained by the department of revenue and other than as provided in subsection (3) of this rule may be reported as chipwood volume when scaled as utility grade logs, based on log scaling or upon approved sample log scaling methods.

If a harvester reports chipwood volume that was delivered to a location that is not listed as an approved chipwood destination and there has been no log scaling or approved sample log scaling, the chipwood volume so reported will be converted by the department of revenue to the appropriate

sawlog volume in accordance with WAC 458-40-680 for purposes of timber excise taxation.

(5) **Small log destinations.** Businesses that process small logs as defined in WAC 458-40-610 may be designated as approved "small log destinations."

(a) The department of revenue will maintain a current list of approved small log destinations. This list will be updated as necessary and will be formally reviewed by the department of revenue at least twice a year. A list of approved small log destinations is available from the forest tax section of the department of revenue.

(b) A log processor in the business of processing small logs that has not been designated as an approved destination may file an application to be listed as an approved small log destination. The application should be submitted to the Department of Revenue, Forest Tax Section, P. O. Box 47472, Olympia, Washington 98504-7472.

(c) Any applicant seeking administrative review of the department of revenue's decision made under (b) of this subsection may appeal the decision in accordance with WAC 458-20-100 (Appeals, small claims and settlements).

[Statutory Authority: RCW 82.32.300 and 84.33.096. 00-24-068, § 458-40-670, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.330, 84.33.096 and 84.33.200. 95-18-027, § 458-40-670, filed 8/25/95, effective 9/25/95. Statutory Authority: RCW 84.33.091, 84.32.300 [82.32.300] and 84.33.096. 94-14-048, § 458-40-670, filed 6/30/94, effective 7/1/94; 94-02-047, § 458-40-670, filed 12/30/93, effective 1/1/94; 93-14-051, § 458-40-670, filed 6/30/93, effective 7/1/93; 93-02-025, § 458-40-670, filed 12/31/92, effective 1/1/93; 92-14-083, § 458-40-670, filed 6/29/92, effective 7/1/92; 92-02-067, § 458-40-670, filed 12/31/91, effective 1/1/92. Statutory Authority: RCW 84.33.096 and 82.32.300. 91-14-077, § 458-40-670, filed 6/28/91, effective 7/1/91; 91-02-088, § 458-40-670, filed 12/31/90, effective 1/31/91; 90-14-033, § 458-40-670, filed 6/29/90, effective 7/30/90; 90-02-049, § 458-40-670, filed 12/29/89, effective 1/29/90. Statutory Authority: Chapter 84.33 RCW and RCW 84.33.091. 89-14-051 (Order FT-89-2), § 458-40-670, filed 6/30/89; 89-02-027 (Order FT-88-5), § 458-40-670, filed 12/30/88; 88-14-032 (Order FT-88-2), § 458-40-670, filed 6/30/88; 88-02-026 (Order FT-87-5), § 458-40-670, filed 12/31/87. Statutory Authority: Chapter 84.33 RCW. 87-14-042 (Order 87-2), § 458-40-670, filed 6/30/87; 87-02-023 (Order 86-4), § 458-40-670, filed 12/31/86.]

WAC 458-40-680 Timber excise tax—Volume harvested—Approved scaling and grading methods—Sample scaling—Conversions. (1) **Introduction.** The acceptable log scaling and grading standard for stumpage value areas 1, 2, 3, 4, 5, and 10 is the Scribner Decimal C log rule as described in the most current edition of the "Official Log Scaling and Grading Rules" developed and authored by the Northwest Log Rules Advisory Group. The acceptable log scaling standard for stumpage value areas 6 and 7 is the Scribner Decimal C log rule described in the most current edition of the "Eastside Log Scaling Handbook" as published by the Northwest Log Rules Advisory Group, except that timber harvested in stumpage value areas 6 and 7 must be scaled using the current regional taper rules at the point of origin.

(2) **Special services scaling.** Special services scaling as described in the "Official Log Scaling and Grading Rules" developed and authored by the Northwest Log Rules Advisory Group may not be used for tax reporting purposes without prior written approval of the department of revenue.

(3) **Sample scaling.** Sample scaling may not be used for tax reporting purposes without prior written approval of the

department of revenue. To be approved, sample scaling must be in accordance with the following guidelines:

(a) Sample selection, scaling, and grading must be conducted on a continuous basis as the unit is harvested.

(b) The sample must be taken in such a manner to assure random, unbiased sample selection in accordance with accepted statistical tests of sampling.

(c) The sample used to determine total volume, species, and quality of timber harvested for a given reporting period must have been taken during that period.

(d) Sample frequency must be large enough to meet board foot variation accuracy limits of plus or minus two and five-tenths percent standard error at the ninety-five percent confidence level.

(e) Harvesters, or a purchaser with an approved sample scaling method, must maintain sufficient supporting documentation to allow the department of revenue to verify source data, and test statistical reliability of sample scale systems.

(f) Exceptions: Sampling designs and accuracy standards other than those described herein may only be used with the prior written approval of the department of revenue.

(4) **Conversions to Scribner Decimal C Scale.** The following definitions, tables, and conversion factors must be used in determining taxable volume for timber harvested that was not originally scaled by the Scribner Decimal C Log Rule. Conversion methods other than those listed are not to be used for tax reporting purposes without prior written approval of the department of revenue. Harvesters who wish to use a method of conversion other than those listed below must obtain written approval from the department of revenue before harvesting. Purchasers may obtain written approval of a sample scaling method from the department of revenue. The department will maintain a list of purchasers with an approved sample scaling method. A harvester may obtain this list and a summary of the approved method for specific purchasers from the department of revenue. If a harvester has not obtained approval of a sample scaling method before harvesting, the harvester may use a purchaser's approved sample scaling method. If the harvester, or purchaser, fails to use an approved sample scaling method or other method of conversion approved by these rules to set the purchase price, the department will establish its own method, as the circumstances require, to determine a reasonable estimate of the volume of timber sold.

(a) **Weight measurement.** If the sole unit of measure used to set the purchase price for logs from harvest units that meet the definition of the lowest quality code for each species was weight, and the harvester does not use an approved method of sample scaling to determine volume for the stumpage value tables, the following tables must be used for converting to Scribner Decimal C. If weight is the sole measure used for a harvest unit with quality codes other than the lowest, the department will establish its own method, as the circumstances require, to determine a reasonable estimate of the volume of timber sold. Harvesters must keep records to substantiate the species and quality codes reported. For tax reporting purposes, a ton equals 2,000 pounds.

(2007 Ed.)

(Stumpage Value Areas 1, 2, 3, 4, 5, & 10) BOARD FOOT WEIGHT SCALE FACTORS (TONS/MBF)				
Species	Quality code			
	1	2	3	4
Douglas-fir ¹	NA	NA	NA	7.50
Western Hemlock ²	NA	NA	NA	8.25
Western Redcedar ³	7.0			
Red Alder ⁴	NA	7.8		
Chipwood	9.0			

¹ Includes Douglas-fir, Western Larch, and Sitka Spruce.

² Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and other conifers not separately designated. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

³ Includes Alaska-cedar.

⁴ Maple, Black Cottonwood and other hardwoods.

(Stumpage Value Areas 6 & 7) BOARD FOOT WEIGHT SCALE FACTORS (TONS/MBF)		
Species	Quality code	
	1	2
Ponderosa Pine	NA	6.50
Douglas-fir ¹	5.50	
Lodgepole Pine	6.0	
Western Hemlock ²	5.50	
Englemann Spruce	4.50	
Western Redcedar ³	4.50	
Chipwood	9.0	
Small Logs	6.50	

¹ Includes Western Larch.

² Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and other conifers not separately designated. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

³ Includes Alaska-cedar.

(b) **Cord measurement.** For the purposes of converting cords into Scribner volume:

(i) In stumpage value areas 1, 2, 3, 4, 5, and 10 logs with an average scaling diameter of 8 inches and larger must be converted to Scribner volume using 400 board feet per cord. Logs having an average scaling diameter of less than 8 inches must be converted to Scribner volume using 330 board feet per cord.

(ii) In stumpage value areas 6 and 7 logs with an average scaling diameter of 8 inches and larger must be converted to Scribner volume using 470 board feet per cord. Logs having an average scaling diameter of less than 8 inches must be converted to Scribner volume using 390 board feet per cord.

(iii) A cord of Western Redcedar shake or shingle blocks must be converted to Scribner volume using 600 board feet per cord.

(iv) Firewood must be converted at a rate of 3 tons per cord.

(c) **Cants or lumber from portable mills.** To convert from lumber tally to Scribner volume:

(i) In stumpage value areas 1, 2, 3, 4, 5, and 10 multiply the lumber tally for the individual species by 75%, and round to the nearest one thousand board feet (MBF); or

[Title 458 WAC—p. 527]

(ii) In stumpage value areas 6 and 7 multiply the lumber tally for the individual species by 88%, and round to the nearest one thousand board feet (MBF).

(d) **Log scale conversion.** Timber harvested in stumpage value areas 1, 2, 3, 4, 5, and 10 and which has been scaled by methods and procedures published in the "Eastside Log Scaling Handbook" must have the volumes reported reduced by eighteen percent. Timber harvested in stumpage value areas 6

and 7 and which has been scaled by methods and procedures published in the "Official Log Scaling and Grading Rules" developed and authored by the Northwest log rules advisory group, must have the volumes reported increased by eighteen percent.

(e) **Timber pole and piling volume tables.** Harvesters of poles must use the following tables to determine the Scribner board foot volume for each pole length and class:

Total Scribner Board Foot Volume Stumpage Value Areas 1, 2, 3, 4, 5, and 10																	
Length	Pole Class ¹															Piling Class ²	
	H6	H5	H4	H3	H2	H1	1	2	3	4	5	6	7	9	10	A	B
20							50	50	40	40	30	30	20	20	20	80	70
25							60	60	50	50	40	40	30	30	30	100	90
30							110	70	60	60	50	50	40	40		130	110
35					160	160	130	100	80	80	60	60	50			130	110
40			240	200	180	180	150	120	120	90	70	60				150	120
45	380	340	340	280	230	230	190	150	120	120	90	90				150	120
50	430	370	370	300	260	260	210	160	140	140	100					160	140
55	470	410	410	330	280	280	230	180	150	150						180	150
60	540	470	470	410	340	340	290	220	190	190						190	160
65	610	520	520	420	380	380	320	260	210	210						210	180
70	650	560	560	480	400	400	350	270	230	230						230	190
75	700	600	600	520	520	520	440	290	250							230	200
80	820	700	700	600	600	540	440	360	290							250	210
85	910	800	800	660	660	660	570	490	360							260	210
90	1080	930	930	820	820	690	590	490	400							260	220
95	1170	1000	1000	870	870	750	640	540								290	240
100	1190	1030	1030	900	900	760	660	550								310	250
105	1310	1160	1160	1000	1000	860	740	610								330	270
110	1370	1220	1220	1050	1050	910	780	650								380	300
115	1440	1280	1280	1100	1100	960	860	680								400	310
120	1660	1460	1460	1300	1300	1140	970	820								500	400
125	1840	1600	1600	1410	1410	1250	1080	930									
130	1920	1680	1680	1490	1490	1310	1120	970									

¹ Pole class definitions taken from American National Standard specifications and dimensions for wood poles as approved August 7, 1976, under American National Standard Institute, Inc. codified ANSI 05.1-1972.

² Piling class definitions as per American Society for Testing and Materials for "round timber piles." As the designation: D 25-58 (reapproved 1964).

Total Scribner Board Foot Volume Stumpage Value Areas 6 and 7																	
Length	Pole Class ¹															Piling Class ²	
	H6	H5	H4	H3	H2	H1	1	2	3	4	5	6	7	9	10	A	B
20							70	60	50	50	30	30	20	20	20	90	70
25							80	70	50	50	40	40	30	30	20	100	80
30							110	90	60	60	50	50	40	40		130	110
35					190	160	140	100	100	70	60	60	50			140	100
40				240	240	200	170	120	110	100	70	70				140	100
45	390	330	330	270	270	220	180	150	110	110	80	70				150	110
50	460	390	390	340	340	280	240	190	150	150	120					190	150
55	510	430	430	370	360	300	250	190	150	150						190	150
60	610	530	530	440	440	380	310	240	200	200						240	200
65	650	570	570	490	480	410	350	280	220	220						240	200
70	750	650	650	550	470	470	410	320	260	260						260	210
75	810	700	700	600	600	500	440	340	270							270	220
80	960	830	830	710	710	610	510	420	340							220	220
85	1020	870	870	760	760	640	550	450	360							300	240
90	1110	970	970	840	840	720	620	500	420							280	280
95	1160	1010	1010	870	870	740	640	510								360	280
100	1380	1210	1210	1060	1060	910	780	650								360	280
105	1430	1250	1250	1100	1100	940	820	690								400	300
110	1580	1390	1390	1220	1220	1070	920	770								460	340
115	1660	1470	1470	1280	1280	970	810	680								470	360
120	1880	1680	1680	1480	1480	1290	1130	950								560	450
125	1910	1690	1690	1490	1490	1140	970	810									
130	2170	1920	1920	1710	1710	1510	1320	1140									

¹ Pole class definitions taken from American National Standard specifications and dimensions for wood poles as approved August 7, 1976, under American National Standard Institute, Inc. codified ANSI 05.1-1972.

² Piling class definitions as per American Society for Testing and Materials for "round timber piles." As the designation: D 25-58 (reapproved 1964).

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 84.33.096. 06-02-007, § 458-40-680, filed 12/22/05, effective 1/22/06; 05-08-070, § 458-40-680, filed 3/31/05, effective 5/1/05; 03-22-099, § 458-40-680, filed 11/5/03, effective 12/6/03. Statutory Authority: RCW 82.32.300 and 84.33.096. 00-24-068, § 458-40-680, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.330, 84.33.096 and 84.33.120. 96-02-056, § 458-40-680, filed 12/29/95, effective 1/29/96. Statutory Authority: RCW 82.32.300 and 84.33.096. 95-14-084, § 458-40-680, filed 6/30/95, effective 7/31/95. Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-680, filed 12/31/86.]

Chapter 458-50 WAC

INTERCOUNTY UTILITIES AND TRANSPORTATION COMPANIES—ASSESSMENT AND TAXATION

WAC

458-50-020	Annual reports—Duty to file.
458-50-030	Annual reports—Contents.
458-50-040	Annual reports—Time of filing—Extension of time.
458-50-060	Failure to make report—Default valuation—Penalty—Estoppel.
458-50-070	Annual assessment—Procedure.
458-50-080	True cash value—Criteria.
458-50-085	Computer software—Definitions—Valuation—Centrally assessed utilities.
458-50-090	Methods of valuation.
458-50-100	Apportionment of operating property to the various counties and taxing districts.
458-50-110	Apportionment reports.
458-50-120	Notification of real estate transfers.
458-50-130	Taxing district boundary changes—Estoppel.
458-50-150	Intangible personal property exemption—Introduction.
458-50-160	Exempt intangible property distinguished from other intangibles.
458-50-170	Valuation principles.
458-50-180	Appraisal practices relating to valuing intangible personal property.
458-50-190	Valuation of particular assets.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

458-50-010	Assessment of public utilities—Purpose—Definitions. [Order PT 75-2, § 458-50-010, filed 3/19/75.] Repealed by 99-08-006, filed 3/25/99, effective 4/25/99. Statutory Authority: RCW 84.12.240.
458-50-050	Access to books, records, and property. [Order PT 75-2, § 458-50-050, filed 3/19/75.] Repealed by 99-08-006, filed 3/25/99, effective 4/25/99. Statutory Authority: RCW 84.12.240.

WAC 458-50-020 Annual reports—Duty to file. Each company doing an inter-county or interstate business in this state shall make and file an annual report with the department. At the time of making such report, each company shall if directed by the department also file with the department:

(1) Annual reports of the board of directors or other officers to the stockholders of the company.

(2) Duplicate copies of the annual reports made to the federal regulatory agency or agencies exercising jurisdiction over the company.

(3) Duplicate copies of the annual reports made to the Washington state utilities and transportation commission or other Washington state regulatory agency exercising jurisdiction over the company.

(4) Duplicate copies of such other annual or special reports as the department may, from time to time, direct each company to make.

[Order PT 75-2, § 458-50-020, filed 3/19/75.]

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WAC 458-50-030 Annual reports—Contents. Annual reports shall be made on forms furnished by the department, and shall contain such information as is required to enable the department to determine the true and fair value of a company's operating property in the state, and the apportionment thereof to the several counties and taxing districts. The report shall be signed by the president, treasurer or other responsible official of the company.

(1) In determining what types of information shall be required to be included in the annual report, the department may take into account, among other factors, the necessity and worth of such information in valuing, allocating or apportioning operating property; whether such information is of the type customarily maintained by the industry for internal accounting or regulatory agency purposes; and the cost and difficulty of obtaining or maintaining such information. The department's determination shall be final, and no company shall be excused from providing such information except upon a clear showing that undue hardship would result.

(2) On or before December 1st of the year preceding the calendar year to be covered by the annual report, the department shall notify the companies of the types of information required to be included in the annual report for such forthcoming year: Provided, That the foregoing requirement shall not be applicable for calendar year 1975.

[Order PT 75-2, § 458-50-030, filed 3/19/75.]

WAC 458-50-040 Annual reports—Time of filing—Extension of time. Annual reports shall be filed with the department on or before the fifteenth day of March. The department may grant a reasonable extension of time, not to exceed sixty days, upon written application of the company filed with the department on or before the fifteenth day of March, and showing good cause why such an extension is required. In the event any other report required to be filed with the department, e.g., annual stockholders report or regulatory agency report, is not available at the time the annual report is filed, the company shall so notify the department and thereafter file such report as soon as it becomes available.

[Statutory Authority: RCW 84.12.390. 06-05-034, § 458-50-040, filed 2/8/06, effective 3/11/06; Order PT 75-2, § 458-50-040, filed 3/19/75.]

WAC 458-50-060 Failure to make report—Default valuation—Penalty—Estoppel. (1) If any company, or any of its officers or agents shall refuse or neglect to make any report required by law or by the department, or shall refuse to permit an inspection and examination of its records, books, accounts, papers or property requested by the department, or shall refuse or neglect to appear before the department in obedience to a subpoena, the department shall proceed, in such manner as it may deem best, to obtain facts and information upon which to base its valuation, assessment, and apportionment of such company.

(2) Willful failure to file with the department any report required by the department within the time fixed by law, including any extension granted by the department, shall constitute refusal or neglect to make a report, and the department may proceed in accordance with subsection (1) to value, assess, and apportion the property of such company as if no report had been made.

(3) **Penalty.** When the department has ascertained the value of the property of such company in accordance with subsections (1) or (2), it shall add to the value so ascertained twenty-five percent as a penalty.

(4) Where the department has proceeded in accordance with subsections (1) or (2), such company shall be estopped to question or impeach the valuation, assessment, or apportionment made by the department in any administrative or judicial proceeding thereafter.

[Order PT 75-2, § 458-50-060, filed 3/19/75.]

WAC 458-50-070 Annual assessment—Procedure.

(1) **In general.** Annually between the fifteenth day of March and the first day of July the department shall proceed to list and value the operating property of each company subject to assessment by the department. The department shall prepare a report summarizing the information, factors and methods used in determining the tentative value of each such company (hereafter called "report of tentative value"). The department shall prepare an assessment roll upon which shall be placed after the name of each company a general description of the operating property of the company described in accordance with RCW 84.12.200(12), following which shall be entered the actual cash value as tentatively determined by the department.

(2) **Notice of tentative value.** On or before the thirtieth day of June, the department shall notify each company by mail of the tentative valuation entered upon such assessment roll. At the time of making such notification, the department shall also transmit to the company the report of tentative value prepared by the department. Upon written request of a county assessor the department shall also transmit the report of tentative value to such assessor.

(3) Hearings.

(a) *In general.* Each company may petition the department for a hearing relating to the value of its operating property as tentatively determined by the department and to the value of other taxable properties in the counties in which its operating property is situated. Such petition shall be made in writing and filed with the department within the first ten working days of July. The department shall appoint a time within ten working days following the hearing request time period for the conduct of such hearing, which may be held in such places throughout the state as the department may deem proper or necessary. Notice of the time and place of any or all hearings shall be given to any person upon request.

(b) The hearing shall be conducted by the director or by any employee or agent of the department designated by the director. A record of the proceedings shall be kept and shall be considered a public record. The hearing shall be recorded with a recording device and the recordings shall become a part of the record of the proceedings and considered a part of the public record. All records and documents presented at the hearing shall become a part of the record of the proceeding and shall be considered a part of the public record, except as provided in (c) of this subsection.

(c) The hearing shall be open to the public, except (i) when the company proposes to offer in evidence information relating to its assessment if disclosure of such information to other persons would violate the company's right to privacy or

would result in an unfair competitive disadvantage to such company; or (ii) when the department proposes to offer in evidence information which has been obtained pursuant to RCW 84.12.240 if the disclosure of such information to other persons would violate the company's right to privacy or would result in an unfair competitive disadvantage to such company. The hearing at this point shall be closed to the public unless the company consents to the proceeding remaining open to the public.

(d) Testimony recorded, and all records and documents of a confidential nature introduced, during the period when the hearing is closed to the public shall become a part of the record, but shall not be disclosed except upon order of a court of competent jurisdiction or upon consent of the company.

(e) Records of the proceedings shall be maintained for a period of seven years following the close of the hearing.

(4) **Determination of final value.** On or before the twentieth day of August, the department shall make a final determination of the true and correct actual cash value of each company's operating property appearing on the assessment roll. The department may raise or lower the value from that amount tentatively set pursuant to this section: Provided, That failure of a company to request a hearing shall not preclude the department from setting a final value higher or lower than that amount tentatively set pursuant to this section: Provided further, That where a company has not requested a hearing, the department shall not adopt a final value higher than that tentatively set except after giving five days written notice to the company. The department shall notify each company by mail of the final true and correct actual cash value as determined by the department.

[Statutory Authority: RCW 84.12.390, 06-05-034, § 458-50-070, filed 2/8/06, effective 3/11/06. Statutory Authority: RCW 84.12.340 and 84.12.-390, 88-15-016 (Order PT 88-10), § 458-50-070, filed 7/11/88; Order PT 75-2, § 458-50-070, filed 3/19/75.]

WAC 458-50-080 True cash value—Criteria. (1) The true cash value of the operating property of public utilities is its "market value," i.e., the amount of money a buyer willing but not obligated to buy would pay for such operating property from a seller willing but not obligated to sell. In arriving at a determination of such value the department may consider only those factors which can within reason be said to affect the price in negotiations between a willing purchaser and a willing seller, and the department shall consider all such factors to the extent that reliable information is available to support a judgment as to the probable effect of such factors on price.

(2) In determining the true cash value of such operating property the department shall proceed in accordance with generally accepted principles applicable to the valuation of public utilities. The department may consider the cost approach, the income approach and the stock and debt approach to value. Any one of the three approaches to value, or all of them, or a combination of approaches may finally be used in making the final determination of true cash value, depending upon the circumstances.

(A) **The cost approach.** The cost approach determines the value of individual items of property. The types of cost include:

(i) Historical - cost when first put in service

- (ii) Original - cost to present owner
- (iii) Reproduction - cost today to produce in kind
- (iv) Replacement - cost today to replace present property with a functional equivalent.

The department shall make adequate and reasonable allowances for depreciation, including functional and economic obsolescence where such factors are indicated, but in no event shall property be depreciated below salvage or scrap value.

(B) **Income approach.** The income approach determines the ability of operating property to earn a probable money income over some span of future years, discounted to a present value by means of an appropriate capitalization rate.

(i) **Future income stream.** The income to capitalize is the probable future average annual operating income to be derived from operating properties that exist on the assessment date. In making this estimate of probable future average annual operating income, the department may take into account past earnings, present earnings, the growth or shrinking of the property complex, demand for services provided by the company, and all other factors which can within reason be said to indicate the probable future income stream.

(ii) **Capitalization rate.** The capitalization rate may be derived by the comparative method, summation method, band of investment method, or other generally accepted method. Any one of these methods, or any combination thereof, may be used by the department in deriving the appropriate capitalization rate to be applied to probable future average annual operating income.

(C) **Stock and debt approach.** The stock and debt approach determines the value of a company's assets by appraising the value of the liabilities of the company, such as current liabilities, long term debt, reserves, deferred credits, and stockholder's equity. This approach is applicably [applicable] only where a "unitary" or "enterprise" value is sought. Appropriate deductions shall be made for nonoperating property of the enterprise where necessary.

[Order PT 75-2, § 458-50-080, filed 3/19/75.]

WAC 458-50-085 Computer software—Definitions—Valuation—Centrally assessed utilities. (1) This rule implements the provisions of chapter 29, Laws of 1991, ex. sess, regarding the property taxation of computer software for centrally assessed utilities.

(2) **Computer software.** Computer software is a set of directions or instructions that exist in the form of machine-readable or human-readable code, is recorded on physical or electronic medium and directs the operation of a computer system or other machinery and/or equipment. Computer software includes the associated documentation which describes the code and/or its use, operation, and maintenance and typically is delivered with the code to the user. Computer software does not include data bases, but does include the computer programs and code which are used to generate data bases. Computer software can be canned, custom, or a mixture of both.

(a) A data base is text, data, or other information that may be accessed or managed with the aid of computer software but that does not itself have the capacity to direct the operation of a computer system or other machinery and

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equipment; and, therefore does not constitute computer software.

(3) **Custom software.** Custom software is computer software that is specially designed for a single person's or a small group of persons' specific needs. Custom software includes modifications to canned software and can be developed in-house by the user, by outside developers, or by both.

(4) "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the state of Washington, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise and the United States or any instrumentality thereof.

(5) A "small group of persons" shall consist of less than four persons. A group of four or more persons shall be presumed not to be a small group of persons for the purposes of this section unless each of the persons are affiliated through common control and ownership.

(a) "Persons affiliated through common control and ownership" means

(i) Corporations qualifying as controlled group of corporations in 26 USC § 1563; or

(ii) Partnerships or other persons in which at least 80% of the ownership in the persons claimed to be affiliated is the same.

(6) **Canned software.** Canned software, also referred to as prewritten, "shrink-wrapped" or standard software, is computer software that is designed for and distributed "as is" for multiple persons who can use it without modifying its code and which is not otherwise considered custom software.

(a) Computer software that is a combination of prewritten or standard components and components specially modified to meet the needs of a user is a mixture of canned and custom software. The standard or prewritten components are canned software and the modifications are custom software.

(b) Canned software that is "bundled" with or sold with computer hardware retains its identity as canned software and shall be valued as such. "Bundled" software is canned software that is sold with hardware and does not have a separately stated price, and can include operating systems such as DOS, UNIX, OS-2, or System 6.0 as well as other programs.

(c) An upgrade is canned software provided by the software developer, author, distributor, inventor, licensor or sub-licensor to improve, enhance or correct the workings of previously purchased canned software.

(7) **Embedded software.** Embedded software is computer software that resides permanently on some internal memory device in a computer system or other machinery and equipment, that is not removable in the ordinary course of operation, and that is of a type necessary for the routine operation of the computer system or other machinery and equipment.

(a) Embedded software can be either canned or custom software which:

(i) Is an integral part of the computer system or machinery or other equipment in which it resides;

(ii) Is designed specifically to be included in or with the computer system or machinery or other equipment; and

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(iii) In its absence, the computer system or machinery or other equipment is inoperable.

(b) "Not removable in the ordinary course of operation" means that the software is not readily accessible and is not intended to be removed without

(i) Terminating the computer system, machinery, or equipment's operation; or

(ii) Removal of a computer chip, circuit board, or other mechanical device, or similar item.

(c) "Necessary for the routine operation" means that the software is required for the machinery, equipment, or computer to be able to perform its intended function. In the case of machinery or other equipment, such embedded software does not have to be a physical part of the actual machinery or other equipment, but may be part of a separate control or management panel or cabinet.

(8) **Retained rights.** Retained rights are any and all rights, including intellectual property rights such as those rights arising from copyright, patent, and/or trade secret laws, that are owned or held under contract or license by a computer software developer, author, inventor, publisher or distributor, licensor or sublicensor.

(9) **Golden or master copy.** A golden or master copy of computer software is a copy of computer software from which a computer software developer, author, inventor, publisher or distributor makes copies for sale or license.

(10) Acquisition cost.

(a) The acquisition cost of computer software shall include the total consideration paid for the software, including money, credits, rights, or other property expressed in terms of money, actually paid or accrued. The term also includes freight and installation charges but does not include charges for modifying software, retail sales tax or training. No deduction from the acquisition cost of computer software shall be allowed for any retained rights held by the developer, author, inventor, publisher, or distributor.

(b) In cases where the acquisition cost of computer software cannot be specifically identified, it will be valued at the usual retail selling price of the same or substantially similar computer software.

(c) In cases where canned software is specially modified for the user, the canned component of the computer software retains its identity as canned software; and the modifications are considered custom software and not taxable.

(11) Valuation of canned software.

(a) In the first year in which it will be subject to assessment, canned software shall be listed and valued at one hundred percent of acquisition cost as defined in section (10)(a), above, regardless of whether the software has been expensed or capitalized on the accounting records of the business.

(b) In the second year in which it will be subject to assessment, canned software shall be listed at one hundred percent of acquisition cost and valued at fifty percent of its acquisition cost.

(c) After the second year in which canned software has been subject to assessment, it shall be valued at zero.

(d) Upgrades to canned software shall be listed and valued at the acquisition cost of the upgrade package under subsections (11)(a) and (b), above, and not at the value of what the complete software package would cost as a new item.

(12) **Valuation of customized canned software.** In the case where a person purchases canned software and subsequently has that canned software customized or modified in-house, by outside developers, or both, only the canned portion of such computer software shall be taxable and it shall be valued as described in subsection (11).

(13) **Valuation of embedded software.** Because embedded software is part of the computer system, machinery, or other equipment, it has no separate acquisition cost and shall not be separately valued apart from the computer system, machinery, or other equipment in which it is housed.

(14) **Taxable person.** Canned software is taxable to the person having the right to use the software, including a licensee.

(15) **Situs.** Canned and custom software with situs in Washington means software physically located in Washington or installed in or on machinery, equipment, or computer systems physically located in Washington on the assessment date.

(16) **Reporting.** Each utility/taxpayer defined in chapters 84.12 and 84.16 RCW shall report to the department, using the Annual Report tax form provided by the department, the following information regarding its software with situs in Washington in use on the assessment date:

(a) The acquisition cost of expensed canned computer software which was purchased:

(i) In the year preceding the assessment date; and

(ii) In the second year prior to the assessment date; and

(iii) In the years prior to the second year preceding the assessment date.

(b) The historic cost less depreciation of capitalized canned computer software which was purchased:

(i) In the year preceding the assessment date;

(ii) In the second year prior to the assessment date;

(iii) In the years prior to the second year preceding the assessment date;

(c) The acquisition cost of expensed custom computer software which was purchased:

(i) In the year preceding the assessment date;

(ii) In the second year prior to the assessment date;

(iii) In the years prior to the second year preceding the assessment date;

(d) The historic cost less depreciation of capitalized custom computer software.

(17) **Calculation of computer software value.** The following formulas shall be used for determining the percent taxable calculation of computer software used by centrally assessed utilities.

(a) For the purpose of determining the numerator of the percent taxable calculation, the historic cost less depreciation of all taxable Washington property shall be computed by adjusting the historic cost less depreciation of property capitalized in the company's records as follows:

(i) Add the acquisition cost of expensed canned software acquired in the year preceding the assessment date; and

(ii) Add 50% of the acquisition cost of expensed canned software acquired in the second year preceding the assessment date; and

(iii) Subtract 50% of the historic cost less depreciation of capitalized canned software acquired in the second year preceding the assessment date; and

(iv) Subtract the historic cost less depreciation of capitalized canned software acquired in years prior to the second year preceding the assessment date; and

(v) Subtract the historic cost less depreciation of capitalized custom software.

(b) For the purpose of determining the denominator of the percent taxable calculation, the historic cost less depreciation of all Washington property shall be computed by adding the acquisition cost of expensed canned and custom software in use on the assessment date to the historic cost less depreciation of Washington property capitalized in the company's records.

(c) The historic cost less depreciation of all taxable Washington property (calculated as set forth in subsection (a) above) shall be divided by the historic cost less depreciation of all Washington property (calculated as set forth in subsection (b) above) to arrive at the percent taxable calculation.

(d) The portion of the unit value allocated to Washington state shall be multiplied by the percent taxable calculated as set forth in subsection (c) above to determine the Washington taxable property value.

(18) Exemptions.

(a) All custom software, except embedded software, shall be exempt from property taxation;

(b) Retained rights of the computer software developer, author, inventor, publisher, distributor, licensor or sublicensee are exempt from property taxation;

(c) Modifications to canned software shall be exempt from property taxation as custom software; however, the underlying canned software shall retain its identity as canned software and shall be valued as prescribed in subsection (11) of this rule;

(d) Master or golden copies of computer software are exempt from property taxation;

(e) The taxpayer is responsible for maintaining and providing records sufficient to support any claim of exemption for either canned or custom software.

[Statutory Authority: RCW 84.08.010 and 1991 c 29. 92-01-132, § 458-50-085, filed 12/19/91, effective 1/19/92.]

WAC 458-50-090 Methods of valuation. The department shall use either the summation method or "unitary" or "enterprise" method in valuing the operating property of companies. As a general rule, the unitary or enterprise method is preferred where valuing a thoroughly integrated group of properties such that removal or destruction of any one property would jeopardize and/or immobilize the entire operation of the company. The summation method is preferred where adequate information is not available to derive reliable indicators of unitary or enterprise value, and the nature of the operating property is such that it may be segregated into component parts and the value of the parts readily determined. Notwithstanding the provisions of WAC 458-50-080, the department may, in using the summation method, employ the comparable sales or "market" approach to value to the exclusion of any other approach.

[Order PT 75-2, § 458-50-090, filed 3/19/75.]

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WAC 458-50-100 Apportionment of operating property to the various counties and taxing districts. In general. The department shall apportion the value of all public utility companies to the various counties in such a manner as will reasonably reflect the true cash value of the operating property located within each county and taxing district. Since it is impossible to determine with mathematical precision the precise value of each item of property located within each county and taxing district, the department shall apportion the value of operating property on the following basis:

(1) **Railroad companies** - The ratio that mileage of track, as classified by the department, situated within each county and taxing district bears to the total mileage of track within the state as of January 1 of the assessment year. In the event there exists operating property of railroad companies in counties or taxing districts not having track mileage, the department shall situs such property and apportion value directly on the basis of cost as determined in accordance with the cost approach set forth in WAC 458-50-080(A).

(2) **Pipeline companies** - The ratio that inch-equivalent of miles of pipeline situated within each county or taxing district bears to the total inch-equivalent of miles of pipeline within the state as of January 1 of the assessment year. In the event there exists operating property of pipeline companies in counties or taxing districts not having pipeline mileage, the department shall situs such property and apportion value to such county or taxing district directly on the basis of cost as determined in accordance with the cost approach set forth in WAC 458-50-080(A).

(3) **Telegraph companies** - The ratio that the cost (historical or original) of operating property situated within each county and taxing district bears to the cost (historical or original) of all operating property within the state as of January 1 of the assessment year.

(4) **Telephone companies** - The ratio that the cost (historical or original) of operating property situated within each county or taxing district bears to the total cost (historical or original) of all operating property within the state as of January 1 of the assessment year.

(5) **Electric light and power companies** - The ratio that cost (historical or original) of operating property situated within each county and taxing district bears to the total cost (historical or original) of all operating property within the state as of January 1 of the assessment year.

(6) **Gas companies** - The ratio that cost (historical or original) of operating property situated within each county and taxing district bears to the total cost (historical or original) of all operating property within the state as of January 1 of the assessment year: Provided, The value of pipeline shall be allocated on the basis of the ratio that inch-equivalent of miles of pipeline situated within each county or taxing district bears to the total inch-equivalent of miles of pipeline within the state as of January 1 of the assessment year.

(7) **Airplane companies** - The ratio that cost (historical or original) of operating property situated within each county and taxing district bears to the total cost (historical or original) of operating property within the state as of January 1 of the assessment year: Provided, That the value of aircraft shall be apportioned on the basis of the ratio that landings and take-offs of such aircraft within each county and taxing dis-

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tract bears to the total landings and take-offs within the state during the previous calendar year.

[Statutory Authority: RCW 84.12.390, 06-05-034, § 458-50-100, filed 2/8/06, effective 3/11/06; 88-02-009 (Order PT 87-9), § 458-50-100, filed 12/28/87; Order PT 75-2, § 458-50-100, filed 3/19/75.]

WAC 458-50-110 Apportionment reports. (1) On or before April 15 of each year the department shall furnish taxing district maps and report forms (hereinafter referred to as "apportionment reports") to each railroad, pipeline, telegraph, telephone, electric light and power, and gas company.

(2) Each company furnished an apportionment report shall complete and submit such report to the department on or before June 1 of the assessment year. Since all apportionment reports must be in the department's hands by June 1 in order to permit adequate opportunity to properly apportion operating property in accordance with WAC 458-50-100, an extension of time for filing such reports will be granted only upon a showing of undue hardship.

[Order PT 75-2, § 458-50-110, filed 3/19/75.]

WAC 458-50-120 Notification of real estate transfers. Each company shall notify the department of any transfer of title, use or occupancy of operating property consisting of real property, whether such transfer is to or from such company. Such notification shall contain the legal description of the property, date of transfer, and name and address of transferor and transferee. For purposes of this rule, it shall be sufficient to transmit a copy of the deed, real estate contract, or lease (as the case may be) to the department. Such notification shall be made within ninety days of the effective date of such transfer.

[Order PT 75-2, § 458-50-120, filed 3/19/75.]

WAC 458-50-130 Taxing district boundary changes—Estoppel. (1) In accordance with RCW 84.09.030 and WAC 458-12-140, the county assessor is required on or before March 1 to transmit certain documents and maps setting forth taxing district boundary changes to the department of revenue, property tax division.

(2) The department shall prepare taxing district maps based upon information submitted to it on or before March 1. Such maps shall be used to fix taxing district boundaries for purposes of apportioning the operating property of each company among the various counties and taxing districts. Any county or taxing district not having submitted the documents and maps as required by WAC 458-12-140 shall be estopped from questioning the validity of any apportionment of value to it as determined by the department to the extent that such challenge is based upon taxing district boundaries different than as shown on the department's maps.

[Order PT 75-2, § 458-50-130, filed 3/19/75.]

WAC 458-50-150 Intangible personal property exemption—Introduction. (1) **Goal of these rules relative to exemption of intangible personal property.** Although the Washington Constitution allows for property taxation of all property subject to ownership, "whether tangible or intangible," the legislature has exempted some intangible property from property taxation for many years. In 1997, the legisla-

ture expanded the property tax exemption for intangible personal property and provided examples of exempt property. The following rules are intended to provide additional clarification of the statute and provide guidelines to be used by assessing officials in determining the taxable value of property. The goal is to ensure, in as fair and equitable a manner as possible, that all taxable property is assessed and all non-taxable property is not assessed.

(2) **Application of these rules.** These rules primarily implement RCW 84.36.070, which establishes a property tax exemption for intangible personal property, but also apply to chapters 84.12 and 84.16 RCW, the statutory chapters dealing with the assessment of public utility, and private car company property, respectively, by the state, and to chapter 84.40 RCW, which deals with assessment of property by the county assessor.

[Statutory Authority: RCW 84.08.010, 84.08.070, and 84.36.865. 06-24-043, § 458-50-150, filed 11/30/06, effective 12/31/06.]

WAC 458-50-160 Exempt intangible property distinguished from other intangibles. (1) **Distinction between property, and characteristics or attributes of property.** The statute (RCW 84.36.070) draws a distinction between intangible personal property and the characteristics or attributes of property, both real and personal. Intangible personal property is exempt from property taxation. However, some characteristics or attributes of property, even though intangible, may be considered in establishing the taxable value of tangible property.

(2) **What intangible personal property is exempt?** The listings of examples of intangible personal property contained in RCW 84.36.070(2) must be consulted, but those listings can be summarized as follows:

(a) Financial intangible property, such as moneys, credits, and publicly issued bonds and warrants, and the bonds, stocks, or shares of private corporations;

(b) Private personal service contracts and athletic or sports franchises, or sports agreements that do not pertain to the use or possession or any interest in tangible personal or real property; and

(c) Miscellaneous types of intangible personal property, such as trademarks, trade names, brand names, patents, copyrights, trade secrets, franchise agreements, licenses, permits, core deposits of financial institutions, noncompete agreements, customer lists, patient lists, favorable contracts, favorable financing agreements, reputation, exceptional management, prestige, good name, integrity of a business, and other similar types of intangible personal property.

(3) **Identifying exempt intangible personal property.** Intangible property is only exempt if it is personal property capable of being individually owned, used, transferred, or held separately from other property. The market value of separate items of intangible personal property should not be identified or characterized solely using residual accounting methods, or other indirect techniques, such as isolating "excess earnings," from a total business valuation. Market value of exempt intangible personal property should be verifiable, to the extent possible, in an openly traded market where the value of comparable intangible properties can be observed and considered. Intangible assets that are separately identified and valued in reports filed with any state or federal

regulatory agency, may be considered when identifying and valuing intangible personal property of the types listed in subsection (2)(c) of this section.

(4) **What intangible characteristics, attributes or other factors affect value and may be considered?** Non-property intangible characteristics or attributes are elements or components of value associated with a real or tangible asset. These characteristics or attributes are "intangible" but they are not "property" and therefore are not tax exempt intangible personal property. They are contingent and dependent upon other property and cannot be owned, used, transferred, or held separately from other property. To the extent that these characteristics, attributes, or other factors contribute to, or affect, the value of property, they must be appropriately considered when determining taxable value. They include the following types:

(a) Zoning, location, view, geographic features, easements, covenants, proximity to raw materials, condition of surrounding property, proximity to markets, or the availability of a skilled work force;

(b) Grants of licenses, permits, and franchises by a government agency that affect the use of the property being valued; and

(c) Other characteristics of property, such as scarcity, uniqueness, adaptability, or utility as an integrated unit.

[Statutory Authority: RCW 84.08.010, 84.08.070, and 84.36.865. 06-24-043, § 458-50-160, filed 11/30/06, effective 12/31/06.]

WAC 458-50-170 Valuation principles. (1) What is meant by "true and fair value"? One hundred percent of true and fair value is the standard used by assessing officials for valuing both taxable property and exempt property. True and fair value is the same as market value or fair market value. It is the amount of money a buyer of property willing but not obligated to buy would pay a seller of property willing but not obligated to sell, taking into consideration all uses to which the property is adapted and might in reason be applied. This term incorporates all the rights and benefits, present and future, associated with the ownership of property.

(2) **Approaches to value.** All three traditional and generally accepted approaches to value may be used by assessing officials. These approaches are cost, including the actual cost new or historical cost less depreciation, the cost of reproduction new less any depreciation, the cost of replacement new less any depreciation; income, including the past, present, and prospective gross and net earnings of the whole system as a unit; and comparable sales (commonly called "market"), including, but not limited to, a technique known as the stock and debt method that considers the par value, actual value and market value of the company's outstanding stocks and bonds during one or more preceding years.

(3) **Generally accepted appraisal practices.** "Generally accepted appraisal practices" are the appropriate application in the valuation of real, and tangible and intangible personal property, of accepted standards of professional appraisal practice as described in the Uniform Standards of Professional Appraisal Practice issued by the Appraisal Standards Board of the Appraisal Foundation or the accepted standards of other nationally recognized professional appraisal organizations.

(2007 Ed.)

[Statutory Authority: RCW 84.08.010, 84.08.070, and 84.36.865. 06-24-043, § 458-50-170, filed 11/30/06, effective 12/31/06.]

WAC 458-50-180 Appraisal practices relating to valuing intangible personal property. (1) Unit valuation. Unit valuation is a method of determining the market value of a company, business, or property as a whole without reference to individual parts or components. For example, a railroad company may have many miles of track, or a pipeline company may have many miles of pipe, but if the track or the pipe is not connected in a useful and interdependent way to the rest of the company's system as a whole, the track or the pipe have considerably less value. However, when all the interdependent assets of a company are working together and functioning synergistically as a unit, the value of the company as a whole is independent of the value of the component parts. Similarly, the roof or the walls of a house may have value independently of the structure as a whole, but the market value of the house, for purposes of taxation, is determined as a unit. Market value is the value of the unit as a whole, not a summation of fractional appraisals of the component parts. The unit value may have enhanced taxable value above, taxable value equal to, or taxable value lower than what the sum of the value of the component parts may indicate. The department is specifically authorized to take into consideration, among other things, "the value of the whole system as a unit," when valuing companies with operating property in more than one county or more than one state. (RCW 84.12.300; see also RCW 84.16.050.)

(2) **Situs, allocation, and apportionment.** Property taxes may only be levied upon property having situs in this state, in other words, upon property located in this state. The process of dividing up the unit value of a company among the states where it has a presence is called allocation. The process of dividing up the allocated state value among the taxing jurisdictions within a state is called apportionment. Once the taxable value, meaning the total value of a company's operating property in this state less the exempt value, has been determined, the taxable value is apportioned as required by law.

(3) **Valuation of exempt intangible personal property.** Assessing officials may use one of two methods, as appropriate, to determine the value of intangible personal property that is exempted from a company's unit value. The first method is the method by which the true and fair value of the exempt intangible personal property is deducted from the true and fair value of the operating property at the system level to arrive at taxable value at the system or entity level. The second method is the method by which the true and fair value of exempt intangible personal property is excluded from the value of the operating property at the system level by using a valuation model that approximates the value of the nonexempt assets only. These two methods are explained in more detail as follows.

(a) The first method is a two-step process that involves valuing the entire company operation, the unit, as the first step, using any or a combination of the three traditional approaches to value. Then the exempt property is separately identified, valued, and deducted from the unit value. In valuing the exempt property, assessing officials use generally accepted appraisal practices, including sales of similar intan-

gible personal property, capitalization rates obtained through those sales, or by identifying cash flows attributable to each intangible personal property asset. When using this method, the value resulting from deducting the exempt value of intangible personal property from the entire company value, is the taxable value at the system or entity level. From that value, the proper value must then be allocated to this state and apportioned to the local taxing jurisdictions by law.

(b) The second method involves an appraisal process using an appraisal model that intrinsically approximates the exclusion of exempt intangible value. This process assumes the existence of intangible personal property in the overall value of the company being valued, but does not specifically identify or value individual intangible personal property assets. Although the model may not actually exclude the value of exempt intangible personal property, it simulates the effect of exempting intangible personal property by producing a lower assessed value equivalent to the exclusion of exempt intangible property.

(4) **Unit value at the county level.** When a business operates in more than one location within a county, but is physically, economically, and functionally integrated, it may also be valued by the assessor as a unit. However, properties that share a name, for example, but are independently operated, such as bank branches, retail outlets, radio stations, or hotels or motels that are part of a chain, should generally be valued as stand-alone enterprises, and not as physically, economically, and functionally integrated units. An assessor should consider the unit being assessed to be the same unit a typical purchaser would consider in an openly traded market. If the property being assessed would typically be purchased as a stand-alone and independent operation without reference to a larger entity, then that is how it should be assessed. If the property being assessed would typically be included in the purchase of a larger entity, then the assessor should consider the influence on value that being included within the larger unit would have on the property being assessed.

[Statutory Authority: RCW 84.08.010, 84.08.070, and 84.36.865. 06-24-043, § 458-50-180, filed 11/30/06, effective 12/31/06.]

WAC 458-50-190 Valuation of particular assets. (1) Computer software. Computer software is generally exempt from property taxation. The exemption is specifically dealt with in RCW 84.36.600 (exemption), RCW 84.04.150 (definitions), and WAC 458-12-251. Computer software and embedded software is valued in accordance with RCW 84.40.037. RCW 84.36.070 and these rules (WAC 458-50-150 through 458-50-190) do not apply to computer software, and nothing in that statute or these rules may be construed to amend or modify that existing statute and the rule dealing with the property tax treatment of computer software.

(2) In valuing low income or other housing which qualifies for federal income tax credits, those tax credits are exempt from property taxation to the extent that they are transferable separate and apart from any interest in the housing property.

[Statutory Authority: RCW 84.08.010, 84.08.070, and 84.36.865. 06-24-043, § 458-50-190, filed 11/30/06, effective 12/31/06.]

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Chapter 458-53 WAC

PROPERTY TAX ANNUAL RATIO STUDY

WAC

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458-53-040	Land Use Code—Ratio study. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-040, filed 10/11/79.] Repealed by 96-05-002, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075.
458-53-051	Ratio determination by land use class. [Statutory Authority: RCW 84.48.075. 86-21-004 (Order PT 86-6), § 458-53-051, filed 10/2/86; 83-16-050 (Order PT 83-2), § 458-53-051, filed 8/1/83.] Repealed by 96-05-002, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075.
458-53-060	Stratification—Personal property. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-060, filed 10/11/79. Formerly WAC 458-52-050.] Repealed by 84-14-039 (Order PT 84-2), filed 6/29/84. Statutory Authority: RCW 84.48.075.
458-53-090	Department generated sales studies. [Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-090, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075. 84-14-039 (Order PT 84-2), § 458-53-090, filed 6/29/84; 83-16-050 (Order PT 83-2), § 458-53-090, filed 8/1/83; 79-11-029 (Order PT 79-3), § 458-53-090, filed 10/11/79.] Repealed by 02-14-031, filed 6/24/02, effective 7/25/02. Statutory Authority: RCW 84.08.010, 84.08.070, and 84.48.075.
458-53-110	Property values used in the ratio study. [Statutory Authority: RCW 84.48.075 and 84.08.010(2). 89-09-021 (Order PT 89-5), § 458-53-110, filed 4/12/89. Statutory Authority: RCW 84.48.075. 87-12-029 (Order PT 87-5), § 458-53-110, filed 5/29/87; 86-21-004 (Order PT 86-6), § 458-53-110, filed 10/2/86; 84-14-039 (Order PT 84-2), § 458-53-110, filed 6/29/84; 81-22-036 (Order PT 81-15), § 458-53-110, filed 10/30/81; 79-11-029 (Order PT 79-3), § 458-53-110, filed 10/11/79.] Repealed by 96-05-002, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075.
458-53-120	Review procedures for county studies. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-120, filed 10/11/79.] Repealed by 96-05-002, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075.
458-53-141	Personal property audit selection. [Statutory Authority: RCW 84.48.075. 87-12-029 (Order PT 87-5), § 458-53-141, filed 5/29/87; 84-14-039 (Order PT 84-2), § 458-53-141, filed 6/29/84; 81-22-036 (Order PT 81-15), § 458-53-141, filed 10/30/81.] Repealed by 96-05-002, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075.
458-53-142	Personal property audit studies—Date of valuation. [Statutory Authority: RCW 84.08.010 and 84.08.070. 91-01-008, § 458-53-142, filed 12/6/90, effective 1/6/91. Statutory Authority: RCW 84.48.075. 82-24-031 (Order PT 82-9), § 458-53-142, filed 11/23/82.] Repealed by 96-05-002, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075.

- 458-53-150 Indicated real property ratio—Computation. [Statutory Authority: RCW 84.08.010 and 84.08.070. 91-01-008, § 458-53-150, filed 12/6/90, effective 1/6/91. Statutory Authority: RCW 84.48.075 and 84.08.010(2). 89-09-021 (Order PT 89-5), § 458-53-150, filed 4/12/89. Statutory Authority: RCW 84.48.075. 86-21-004 (Order PT 86-6), § 458-53-150, filed 10/2/86; 84-14-039 (Order PT 84-2), § 458-53-150, filed 6/29/84; 82-08-061 (Order PT 82-3), § 458-53-150, filed 4/6/82; 81-04-056 (Order PT 81-5), § 458-53-150, filed 2/4/81; 79-11-029 (Order PT 79-3), § 458-53-150, filed 10/11/79. Formerly WAC 458-52-090.] Repealed by 96-05-002, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075.
- 458-53-163 Mobile homes—Use in study. [Statutory Authority: RCW 84.48.075 and 84.08.010(2). 89-09-021 (Order PT 89-5), § 458-53-163, filed 4/12/89. Statutory Authority: RCW 84.48.075. 87-12-029 (Order PT 87-5), § 458-53-163, filed 5/29/87; 84-14-039 (Order PT 84-2), § 458-53-163, filed 6/29/84.] Repealed by 96-05-002, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075.
- 458-53-165 Property not properly valued—Use in study. [Statutory Authority: RCW 84.48.075. 84-14-039 (Order PT 84-2), § 458-53-165, filed 6/29/84; 83-16-050 (Order PT 83-2), § 458-53-165, filed 8/1/83.] Repealed by 96-05-002, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075.
- 458-53-170 Final indicated ratio—Computation. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-170, filed 10/11/79. Formerly WAC 458-52-110.] Repealed by 84-14-039 (Order PT 84-2), filed 6/29/84. Statutory Authority: RCW 84.48.075.
- 458-53-180 Use of indicated ratios. [Statutory Authority: RCW 84.48.075. 84-14-039 (Order PT 84-2), § 458-53-180, filed 6/29/84; 79-11-029 (Order PT 79-3), § 458-53-180, filed 10/11/79. Formerly WAC 458-52-120.] Repealed by 96-05-002, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075.
- 458-53-190 County assessor's review. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-190, filed 10/11/79. Formerly WAC 458-52-130.] Repealed by 84-14-039 (Order PT 84-2), filed 6/29/84. Statutory Authority: RCW 84.48.075.

WAC 458-53-010 Declaration of purpose. This chapter is promulgated by the department of revenue in compliance with RCW 84.48.075 to describe procedures for determination of indicated ratios of real and personal property for each county, so as to accomplish the equalization of property values required by RCW 84.12.350, 84.16.110, 84.48.080 and 84.52.065. The procedures in this chapter describing the department's annual ratio study are designed to ensure uniformity and equity in property taxation throughout the state to the maximum extent possible.

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-010, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-010, filed 10/11/79. Formerly WAC 458-52-010.]

WAC 458-53-020 Definitions. Unless the context clearly requires otherwise, the following definitions apply throughout this chapter:

- (1) "Account" means a listing of personal property as shown on the county assessment record.
- (2) "Advisory value" means a valuation determination by the department, made at the request of a county assessor.
- (3) "Appraisal" means the determination of the market value of real property, or for real property classified under chapter 84.34 RCW, the determination of the current use value.

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(4) "Assessed value" means the value of real or personal property determined by an assessor.

(5) "Audit" means the determination of the market value of personal property.

(6) "Average assessed value" is the total assessed value of a sample group of real or personal property divided by the number of properties in the sample group.

(7) "Average personal property market value" is the total value of a sample group as determined from personal property audits divided by the number of audits in the sample group.

(8) "Average real property market value" is the total sales price, less one percent, of a sample group of real property divided by the number of properties in the sample group, or the total appraised value of a sample group of real property divided by the number of appraisals in the same group.

(9) "Department" means the department of revenue.

(10) "Land Use Code" means the identification of each real property parcel by numerical digits as representations of the major use of the property. The Land Use Code is derived from the Standard Land Use Coding Manual as prepared by the Federal Bureau of Public Roads and includes use classifications specified by state law.

(11) "Market value" means the amount of money a buyer of property willing but not obligated to buy would pay a seller of property willing but not obligated to sell, taking into consideration all uses to which the property is adapted and might in reason be applied. True and fair value is the same as market value or fair market value.

(12) "Personal property" means all taxable personal property required by law to be reported by a taxpayer.

(13) "Ratio" is the percentage relationship of the assessed value of real or personal property to the market value of real or personal property.

(14) "Ratio study" is the department's annual comparison of the relationship between the county assessed values of real and personal property with the market value of that property as determined by the department's analysis of sales, appraisals, and/or audits or the comparison of the relationship between the county assessed values of real property classified under chapter 84.34 RCW (current use) with the current use value of that property as determined by the department.

(15) "Real property" means all parcels of taxable real property as shown on the county assessment record.

(16) "Sales study" is the comparison of the assessed value of real property with the selling price of the same property.

(17) "Strata" refer to classes of property grouped by assessed value and/or use categories.

(18) "Stratification" means the grouping of the real or personal property assessment records into specific assessed value and/or use categories for ratio sampling and calculation purposes.

(19) "Stratum" refers to a grouping of property with a given range of assessed values and/or having the same use category.

(20) "Valid sale(s)" means a sale of real property that occurs between August 1 preceding January of the current assessment year and March 31 of the current assessment year, and the transfer document is a warranty deed or real estate

contract, and the sale is not a type listed in WAC 458-53-080(2).

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-020, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075 and 84.08.010(2). 89-09-021 (Order PT 89-5), § 458-53-020, filed 4/12/89. Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-020, filed 10/11/79. Formerly WAC 458-52-020.]

WAC 458-53-030 Stratification of assessment rolls—

Real property. (1) Introduction. This rule explains the stratification process for real property. The stratification process is the grouping of real property within each county into homogeneous classifications based upon certain criteria in order to obtain representative samples. Stratification is used in determining the number of appraisals to be included in the ratio study and also for ratio calculation. The county's most current certified assessment rolls are used for stratification. Counties must stratify rolls using a land use code stratification system as prescribed by the department. (See RCW 36.21.100.)

(2) Stratification—Parcel count and total value—

Exclusions. The stratification of the real property assessment rolls must include a parcel count and a total value of the taxable real property parcels in each stratum, excluding the following:

- (a) Designated forest lands.(See chapter 84.33 RCW);
- (b) Timberland classified under chapter 84.34 RCW. (See RCW 84.34.060);
- (c) Current use properties in those counties where a separate study is conducted pursuant to WAC 458-53-095(3);
- (d) State assessed properties; and
- (e) State-owned game lands as defined in RCW 77.12.203(2).

(3) Stratification—By county. For the real property ratio study, the assessment roll must be stratified for individual counties according to land use categories and substratified by value classes as determined by the department. Stratification will be reviewed at least every other year by the department to determine if changes need to be made to improve sampling criteria. After the strata have been determined, the department will notify the counties of the strata limits, and each county must provide the department with the following, taken from the county's assessment rolls:

- (a) A representative number of samples, as determined by the department, in each stratum, together with:
 - (i) The name and address of the taxpayer for each sample;
 - (ii) The land use code for each sample;
 - (iii) The assessed value for each sample; and
 - (iv) The actual number of samples;
- (b) The total number of real property parcels in each stratum; and
- (c) The total assessed value in each stratum.

(4) Counties to provide information timely. The stratification information described in subsection (3) of this rule must be provided by the counties to the department in a timely manner to enable the department to certify the preliminary ratios in accordance with WAC 458-53-200(1). Failure to provide the information in a timely manner will result in the department using its best estimate of stratum values to calculate the real property ratio.

(5) Standard two-digit land use code. The following two-digit land use code will be used as the standard to identify the actual use of the land. Counties may elect to use a more detailed land use code system using additional digits, however, no county land use code system may use fewer than the standard two digits.

RESIDENTIAL

- 11 Household, single family units
- 12 Household, 2-4 units
- 13 Household, multiunits (5 or more)
- 14 Residential condominiums
- 15 Mobile home parks or courts
- 16 Hotels/motels
- 17 Institutional lodging
- 18 All other residential not elsewhere coded
- 19 Vacation and cabin

MANUFACTURING

- 21 Food and kindred products
- 22 Textile mill products
- 23 Apparel and other finished products made from fabrics, leather, and similar materials
- 24 Lumber and wood products (except furniture)
- 25 Furniture and fixtures
- 26 Paper and allied products
- 27 Printing and publishing
- 28 Chemicals
- 29 Petroleum refining and related industries
- 30 Rubber and miscellaneous plastic products
- 31 Leather and leather products
- 32 Stone, clay and glass products
- 33 Primary metal industries
- 34 Fabricated metal products
- 35 Professional scientific, and controlling instruments; photographic and optical goods; watches and clocks-manufacturing
- 36 Not presently assigned
- 37 Not presently assigned
- 38 Not presently assigned
- 39 Miscellaneous manufacturing

TRANSPORTATION, COMMUNICATION, AND UTILITIES

- 41 Railroad/transit transportation
- 42 Motor vehicle transportation
- 43 Aircraft transportation
- 44 Marine craft transportation
- 45 Highway and street right of way
- 46 Automobile parking
- 47 Communication
- 48 Utilities
- 49 Other transportation, communication, and utilities not classified elsewhere

TRADE

- 50 Condominiums - other than residential condominiums
- 51 Wholesale trade
- 52 Retail trade - building materials, hardware, and farm equipment
- 53 Retail trade - general merchandise
- 54 Retail trade - food
- 55 Retail trade - automotive, marine craft, aircraft, and accessories

- 56 Retail trade - apparel and accessories
- 57 Retail trade - furniture, home furnishings and equipment
- 58 Retail trade - eating and drinking
- 59 Other retail trade

SERVICES

- 61 Finance, insurance, and real estate services
- 62 Personal services
- 63 Business services
- 64 Repair services
- 65 Professional services
- 66 Contract construction services
- 67 Governmental services
- 68 Educational services
- 69 Miscellaneous services

CULTURAL, ENTERTAINMENT AND RECREATIONAL

- 71 Cultural activities and nature exhibitions
- 72 Public assembly
- 73 Amusements
- 74 Recreational activities
- 75 Resorts and group camps
- 76 Parks
- 77 Not presently assigned
- 78 Not presently assigned
- 79 Other cultural, entertainment, and recreational

RESOURCE PRODUCTION AND EXTRACTION

- 81 Agriculture (not classified under current use law)
- 82 Agriculture related activities
- 83 Agriculture classified under current use chapter 84.34 RCW
- 84 Fishing activities and related services
- 85 Mining activities and related services
- 86 Not presently assigned
- 87 Not presently assigned
- 88 Designated forest land under chapter 84.33 RCW
- 89 Other resource production

UNDEVELOPED LAND AND WATER AREAS

- 91 Undeveloped land
- 92 Noncommercial forest
- 93 Water areas
- 94 Open space land classified under chapter 84.34 RCW
- 95 Timberland classified under chapter 84.34 RCW
- 96 Not presently assigned
- 97 Not presently assigned
- 98 Not presently assigned
- 99 Other undeveloped land

[Statutory Authority: RCW 84.08.010, 84.08.070, and 84.48.075. 02-14-031, § 458-53-030, filed 6/24/02, effective 7/25/02; 96-05-002, § 458-53-030, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010 and 84.08.070. 91-01-008, § 458-53-030, filed 12/6/90, effective 1/6/91. Statutory Authority: RCW 84.48.075 and 84.08.010(2). 89-09-021 (Order PT 89-5), § 458-53-030, filed 4/12/89. Statutory Authority: RCW 84.48.075. 86-21-004 (Order PT 86-6), § 458-53-030, filed 10/2/86; 84-14-039 (Order PT 84-2), § 458-53-030, filed 6/29/84; 79-11-029 (Order PT 79-3), § 458-53-030, filed 10/11/79. Formerly WAC 458-52-030.]

WAC 458-53-050 Land use stratification, sales summary and abstract report. Stratification of the assessment rolls, the annual sales summary, and the abstract report to the department for real property will be based on the following abstract categories:

Abstract Category	Land Use Code
1. Single family residence	11, 14, 18, 19
2. Multiple family residence	12, 13
3. Manufacturing	21 through 39
4. Commercial	15, 16, 17, 41-49, 50-59, 61-69, 71-79
5. Agricultural	81
6. Agricultural (current use law)	83
7. Forest lands (chapter 84.33 RCW)	88
8. Open space (current use law)	94
9. Timberland (current use law)	95
10. Other	82, 84, 85, 89, 91, 92, 93, 96-99

[Statutory Authority: RCW 84.08.010, 84.08.070, and 84.48.075. 02-14-031, § 458-53-050, filed 6/24/02, effective 7/25/02; 96-05-002, § 458-53-050, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-050, filed 10/11/79. Formerly WAC 458-52-040.]

WAC 458-53-070 Real property sales studies. (1)

Sales study data. The basis of the real property ratio study is data obtained from real estate excise tax affidavits from each county. The department will supplement the sales study with appraisals when it is determined that the sales are insufficient to represent the level of assessment. The appraisals will be selected according to criteria set forth in WAC 458-53-130.

(2) **Time period for data used.** The sales study will only use sales occurring in the eight-month period between August 1 preceding January of the current assessment year and March 31 of the current assessment year.

(3) **Deduction from sale price.** One percent will be deducted from the sale price shown on all valid real estate excise tax affidavits as an adjustment for values transferred that are not assessable as real property.

(4) **Sales not included in the study—Assessment rolls using other than market value—New construction.** Individual sales that show a sale price to assessed value ratio of under twenty-five percent, or over one hundred seventy-five percent shall be excluded from consideration in the study. However, if the number of individual sales meeting either one of these criteria exceeds five percent of the total number of valid sales for a county, then these sales shall be considered in the study.

(a) The exclusion of valid sales in accordance with this subsection shall not apply in situations where other than market value of a particular type of property is being listed on the assessment rolls of the county, as disclosed in any examination by the department. If other than market value is being listed on the assessment rolls for a particular type of real or personal property and, after notification by the department, is not corrected, the department shall adjust the ratio of that type of property, which adjustment shall be used in determining the county's indicated personal or real property ratio. When a particular type of property is found to be at other than market value, that type of property shall be separated from the other properties in the computation of the ratio. The department shall compile the total assessed value and total market value for that type of property, and it shall be included

in the ratio as provided in WAC 458-53-135(3) and 458-53-160(3).

(b) The exclusion of valid sales in accordance with this subsection shall not apply to sales of property on which there is new construction value that has not yet been placed on the county assessment roll.

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-070, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075 and 84.08.010(2). 89-09-021 (Order PT 89-5), § 458-53-070, filed 4/12/89. Statutory Authority: RCW 84.48.075. 83-16-050 (Order PT 83-2), § 458-53-070, filed 8/1/83; 82-08-061 (Order PT 82-3), § 458-53-070, filed 4/6/82; 79-11-029 (Order PT 79-3), § 458-53-070, filed 10/11/79. Formerly WAC 458-52-060.]

WAC 458-53-080 Real property sales sample selection. (1) **Sales included.** Except as provided in subsection (2) of this section, the sales study shall consider all transactions involving a warranty deed or a real estate contract that occurred during the eight-month period described in WAC 458-53-070(2). Sales of mobile homes shall also be included in the real property ratio study when the mobile home meets the definition of real property as defined in RCW 84.04.090. In the case of a county generated sales study (see WAC 458-53-100), the county may use a representative sample of all such transactions with the prior written approval of the department.

(2) **Sales excluded.** Sales or transfers of real property involving instruments other than a warranty deed or real estate contract shall not be considered in the sales study. The following types of sales transactions are examples of sales to be excluded from the sales study, regardless of the type of sale instrument used. Differences from the numerical coding designations set forth in this example may be used by individual counties with prior approval from the department.

NUMERICAL

CODE	TYPE OF TRANSACTION
1	Family - a sale between relatives.
2	Transfers within a corporation by its affiliates or subsidiaries.
3	Administrator, guardian or executor of an estate.
4	Receiver or trustee in bankruptcy or equity.
5	Sheriff or bailee.
6	Tax deed.
7	Properties exempt from taxation (nonprofit, government, etc.).
8	Individual sales with assessment-to-sales ratios of less than twenty-five percent or greater than one hundred seventy-five percent except as provided in WAC 458-53-070.
9	Quitclaim deed.
10	Gift deed; love and affection deed.
11	Seller's or purchaser's assignment of contract or deed - transfer of interest.
12	Correction deed.
13	Trade - exchange of property between same parties.
14	Deeds involving partial interest in property, such as one-third or one-half interest. (If transfer involves total interest i.e., one hundred percent of the property, sale is valid.)

NUMERICAL

CODE	TYPE OF TRANSACTION
15	Forced sales - transfers in lieu of imminent foreclosure, condemnation or liquidation.
16	Easement or right of way.
17	Deed in fulfillment of contract (on a current transaction, a contract with a fulfillment deed is a valid sale).
18	Property physically improved after sale.
19	Timber or forest land.
20	Bare lots platted within the eight-month time period described in WAC 458-53-070(2), with less than twenty percent sold.
21	Plottage - when a larger unit of land is being assembled and an adjoining property is sold at a price significantly different from the price of property of a similar type.
22	\$1,000 sale or under.
23	Lease - assignment, option, leasehold.
24	Classified as "current use" under chapter 84.34 RCW as of date of sale.
25	Change of use where rezoning takes place.
26	Current year segregations that have not been appraised.
27	Other - necessary to identify reason.

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-080, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075. 84-14-039 (Order PT 84-2), § 458-53-080, filed 6/29/84; 83-16-050 (Order PT 83-2), § 458-53-080, filed 8/1/83; 79-11-029 (Order PT 79-3), § 458-53-080, filed 10/11/79.]

WAC 458-53-095 Property values used in the ratio study. The following property values shall be included in the ratio study:

(1) **Assessed values.** Values determined by county assessors according to the provisions of chapters 84.40 RCW (Listing of property) and 84.41 RCW (Revaluation of property).

(2) **Forest land values.** Values of forest land classified or designated under chapter 84.33 RCW and values of timberland classified under chapter 84.34 RCW.

(3) **Current use values.** Values of land (except timber land) and improvements classified under chapter 84.34 RCW (current use assessment). Values of land (except timber land) and improvements classified under chapter 84.34 RCW shall be included as a separate class for counties when those values equal or exceed fifteen percent of the total assessed value of locally assessed real property in the county.

(4) **Advisory values.** Advisory values supplied to the assessor by the department, but only if the property falls within the sales study provided for in WAC 458-53-070 or 458-53-100 or is selected in the appraisal or audit study in accordance with WAC 458-53-130 and 458-53-140.

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-095, filed 2/8/96, effective 3/10/96.]

WAC 458-53-100 County generated sales studies. (1) **Sales data provided by county.** When sales data is provided to the department by counties in accordance with these rules and subject to audit by the department, the data shall be used by the department to determine the indicated real property ratio. The data provided shall be in the form of two reports, a

report consisting of data from valid sales, and a report listing those sales deemed to be invalid.

(2) **Report of valid sales.** The county generated sales report consisting of data from valid sales shall include the following information for each valid sale:

- (a) The real estate excise tax affidavit number.
- (b) The parcel number(s), or other file identification number(s).
- (c) The date of sale.
- (d) The sale price of the transaction.
- (e) The sale price of the transaction reduced by one percent.
- (f) The land use code for the sale property.
- (g) The current assessed value on the county's assessment roll for the sale property.
- (h) A ratio determined by dividing the assessed value by the adjusted sale price (the adjusted sale price is the amount determined in (e) of this subsection).

(3) **Summary of valid sales data.** The county generated sales report shall also contain a summary of the sales information arranged according to land use categories and assessed value strata designated by the department for each county. The summaries for each stratum shall include:

- (a) The total number of sales;
- (b) The total assessed value of all sale property;
- (c) The total adjusted sale price for all sales;
- (d) The total average assessed value; and
- (e) The total average adjusted sale price.

(4) **Report of invalid sales.** The county generated sales report consisting of data from invalid sales shall include the following information for each invalid sale:

- (a) The real estate excise tax affidavit number.
- (b) The parcel number(s), or other file identification number(s).
- (c) The date of sale.
- (d) The sale price of the transaction.
- (e) The sale price of the transaction reduced by one percent.
- (f) The land use code for the sale property.
- (g) The current assessed value on the county's assessment roll for the sale property.
- (h) A ratio determined by dividing the assessed value by the adjusted sale price (the adjusted sale price is the amount determined in (e) of this subsection).
- (i) The appropriate numerical code (see WAC 458-53-080) or the matching description of the reason for determining that the sale was invalid. If numerical code number 27 is used, the reason for determining that the sale was invalid shall be described.

(5) **Sales report—When submitted.** The county generated sales report shall be submitted as soon as possible following the close of the assessment rolls on May 31st and, for sales of property involving new construction, as soon as possible following August 31st.

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-100, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075 and 84.08.010(2). 89-09-021 (Order PT 89-5), § 458-53-100, filed 4/12/89. Statutory Authority: RCW 84.48.075. 84-14-039 (Order PT 84-2), § 458-53-100, filed 6/29/84; 83-16-050 (Order PT 83-2), § 458-53-100, filed 8/1/83; 82-08-061 (Order PT 82-3), § 458-53-100, filed 4/6/82; 79-11-029 (Order PT 79-3), § 458-53-100, filed 10/11/79.]

(2007 Ed.)

WAC 458-53-105 Review procedures for county studies. (1) **Department to monitor compliance.** The department shall review a sales assessment study produced by a county in order to monitor compliance with the rules in this chapter.

(2) **Elements to be verified.** Elements of the county sales study that may be verified include, but are not limited to:

- (a) Property identification;
- (b) Land use code classification;
- (c) Properties reported on real estate excise tax affidavits that were transferred using a warranty deed or real estate contract;
- (d) Sales month identification;
- (e) Deletion practices and identification;
- (f) Computation procedures, including whether the sales value used was one hundred percent or whether the sales value was reduced by one percent;
- (g) Sales and assessment values; and
- (h) Revaluation assessment practices.

(3) **Findings to be discussed with assessor.** Ratio study review findings will be discussed with the individual county assessor and/or the assessor's staff upon completion of the department's review. Any errors in data or procedure discovered shall be corrected for the current and future year's studies.

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-105, filed 2/8/96, effective 3/10/96.]

WAC 458-53-130 Real property appraisal studies.

(1) **Review of prior year's sales.** In order to determine which strata do not have sufficient sales to produce a sales sample representative of the level of assessment, the department shall review a county's prior year's sales studies. This review will determine the number of appraisals necessary to be added to the sales sample.

(2) **Selection of properties for appraisal.** The properties to be appraised by the department shall be selected on a statistically accepted random basis such as stated numerical sequence or random number tables.

(3) **Department appraisals.** Appraisals conducted by the department shall include a physical appraisal of the subject property in order to assure that the most accurate estimate of market value is determined, and shall not be conducted on the basis of mass appraisal techniques. The value determined will be the value as of January 1 of the assessment year, or for appraisals involving new construction, the value as of July 31.

(4) **Review with county.** The department shall review completed appraisals with the assessor and/or the assessor's staff. After the review is complete, the appraisals shall be included with the sales data for computation of the real property ratio.

(5) **Allocation of real and personal property values.** Allocation of value between real and personal property of the total value of appraised property for purposes of the ratio study will be determined using each assessor's method of classifying real and personal property.

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-130, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075. 86-21-004 (Order PT 86-6), § 458-53-130, filed 10/2/86; 84-14-

039 (Order PT 84-2), § 458-53-130, filed 6/29/84; 79-11-029 (Order PT 79-3), § 458-53-130, filed 10/11/79. Formerly WAC 458-52-070.]

WAC 458-53-135 Indicated real property ratio—Computation. (1) **Determination of ratio for assessed value strata.** For each real property stratum, average assessed value and average market value shall be determined from the results of selected sales and appraisal studies. The average assessed value of the samples for each stratum divided by the average market value of the samples determines the ratio for each assessed value stratum.

(2) **Determination of indicated market value.** The actual total assessed value for each stratum divided by the ratio for each assessed value stratum, as determined by using the calculation set forth in subsection (1) of this section, determines the indicated market value of each stratum for the county.

(3) **Addition of county assessed values for current use and forest land—Assessor's certification of values.** The county assessed values of current use land and improvements (chapter 84.34 RCW) and forest land (chapter 84.33 RCW) as indicated on the current certification provided by the assessor to the county board of equalization are added to the

actual total assessed value for the county. Ratios for current use land and improvements and for forest land are applied to the county assessed values to determine indicated market values.

(a) A copy of the assessor's certification to the board of equalization shall be filed with the department by July 15th, or when the rolls for the current assessment year are completed, whichever is later. The certification form shall be properly completed with all required information.

(b) If a copy of the assessor's certification is not received from an assessor prior to September 1, the assessor's abstract of assessed values for the current year may be used, when available. If not available, the assessed values from the abstract of the previous year may be used.

(4) **Determination of county indicated ratio.** The sum total of the county assessed values is divided by the sum of the indicated market values to determine the county indicated real property ratio.

(5) **Example.** The following illustration, using simulated values and ratios, indicates simplified ratio study computation procedures for real property.

STEP 1

STRATUM AVERAGE VALUE & RATIO COMPUTATIONS

Type of Land Use	Stratum	Number of Samples	Average Assessed Value of Samples	Average Market Value of Samples	Stratum Ratio
SINGLE FAMILY RESIDENCE	0 - 75,000	400	\$ 35,000	\$ 45,000	77.8
	75,000 - 150,000	400	100,000	125,000	80.0
	150,000 -+	100	195,000	230,000	84.8
MULTIFAMILY RESIDENCE	0 - 125,000	40	50,000	60,000	83.3
	125,000 -+	15	225,000	265,000	84.9
COMMERCIAL/ MANUFACTURING	0 - 500,000	40	140,000	165,000	84.8
	500,000 -+	25	2,000,000	2,350,000	85.1
AGRICULTURAL	0 - 125,000	35	60,000	65,000	92.3
	125,000 -+	35	300,000	330,000	90.9
OTHER	0 - 100,000	75	30,000	36,000	84.0
	100,000 -+	40	250,000	290,000	86.2

STEP 2

APPLICATION OF STRATUM RATIOS TO ACTUAL COUNTY ASSESSED VALUES

Type of Land Use	Stratum	(1) Actual County Real Property Assessed Value	(2) Ratio	(3) County Market Value Related to Actual Assessed Value Col. 1 ÷ Col. 2
SINGLE FAMILY RESIDENCE	0 - 74,999	\$500,000,000	77.8	\$642,673,522
	75,000 - 149,999	250,000,000	80.0	312,500,000
	150,000 -+	250,000,000	84.8	294,811,321
MULTIFAMILY RESIDENCE	0 - 124,999	85,000,000	83.3	102,040,816
	125,000 -+	65,000,000	84.9	76,560,660
COMMERCIAL/ MANUFACTURING	0 - 499,999	245,000,000	84.8	288,915,094
	500,000 -+	200,000,000	85.1	235,017,626
AGRICULTURAL	0 - 124,999	110,000,000	92.3	119,176,598
	125,000 -+	95,000,000	90.9	104,510,451
OTHER	0 - 99,999	90,000,000	84.0	107,142,857
	100,000 -+	75,000,000	86.2	87,006,961
CURRENT USE LAND (CHAPTER 84.34 RCW)		125,500,000	95.2	131,827,731
CURRENT USE IMP (CHAPTER 84.34 RCW)		50,000,000	84.0	59,523,810
FORESTLAND (CHAPTER 84.33 RCW)		2,950,000	100.0	2,950,000

AND TIMBERLAND
(CHAPTER 84.34 RCW)

\$2,143,450,000

\$2,564,657,447
= 83.6

(6) **Department may consider general trends in property values.** The department may consider the relationship between the market value trends of real property and the assessed value increases or decreases made by the assessor during the year in each county as checks of the validity of the results of the sales and appraisal studies. The assistant director of the property tax division of the department may authorize modification of the results of the sales and appraisal study in any county where there is a demonstrable showing by an assessor to the assistant director that the sales and appraisal study is inconclusive or does not result in a reasonable and factual determination of the relationship of assessed values to market value such that a significant variation results from the previous year not deemed by the assistant director to conform with general trends in property values.

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-135, filed 2/8/96, effective 3/10/96.]

WAC 458-53-140 Personal property ratio study. (1) Introduction. This rule provides information about the personal property ratio study, including the basis for a county's personal property ratio, the determination of strata for each county, and the effect of the discovery of omitted property on the ratio study.

(2) **Basis for personal property ratio.** The basis for a county's personal property ratio will be valuation data with respect to personal property from the three years preceding the current assessment year.

(3) **Stratification of rolls.** Determination of strata for each county will be made by the department to ensure the selection of a representative audit sample and will be reviewed periodically. After the strata have been determined, the department will notify the counties of the strata limits and each county must provide the department with the following, taken from the county's assessment rolls:

(a) A representative number of samples, as determined by the department, in each stratum, together with:

(i) The name and address of the taxpayer for each sample;

(ii) The assessed value for each sample; and

(iii) The actual number of samples;

(b) The total number of personal property accounts in each stratum; and

(c) The total assessed value in each stratum.

(4) **Omitted property.** If the department discovers omitted property in a county, the results of the department's audit will be included in the ratio study.

[Statutory Authority: RCW 84.08.010, 84.08.070, and 84.48.075. 02-14-031, § 458-53-140, filed 6/24/02, effective 7/25/02; 96-05-002, § 458-53-140, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075. 84-14-039 (Order PT 84-2), § 458-53-140, filed 6/29/84; 79-11-029 (Order PT 79-3), § 458-53-140, filed 10/11/79. Formerly WAC 458-52-080.]

WAC 458-53-160 Indicated personal property ratio—Computation. (1) Determination of ratio for assessed value strata. For each personal property assessed value stratum, excluding properties identified in WAC 458-53-070 (4)(a), an average assessed value, and an average market value shall be determined from the results of selected audit studies. The average assessed value for each stratum divided by the average market value determines the ratio for each assessed value stratum.

(2) **Determination of indicated market value.** The actual total assessed value of the county for each stratum divided by the ratio for each assessed value stratum, as determined by using the calculation set forth in subsection (1) of this section, determines the indicated market value of each stratum for the county.

(3) **Additional categories.**

(a) The actual county total assessed values of properties identified in WAC 458-53-070 (4)(a) are added as a separate category to the total county assessed value. A ratio determined for these properties is applied against the total assessed value for the category to determine the indicated total market value for the category.

(b) If ten percent or more of the total personal property assessed value of a county consists of publicly owned timber sold by competitive bid to private purchasers, the assessed value of the timber is added as a separate category to the total county assessed value. A ratio determined for this property is applied against the total assessed value for this category to determine the indicated total market value for this category.

(4) **Determination of county indicated ratio.** The sum of the actual total county assessed values is divided by the sum of the indicated market values to determine the county indicated personal property ratio.

(5) **Example.** The following illustration, using simulated values and ratios, indicates the ratio computation procedures for personal property.

STEP 1 - STRATUM AVERAGE VALUE AND RATIO COMPUTATIONS

	(1)	(2)	(3)	(4)
Stratum	Number of Samples	Average Assessed Value of Samples	Average Market Value of Samples	Stratum Ratio (Col. 2 ÷ Col. 3)
\$ 0 - 74,999	25	\$ 17,000	\$ 22,000	.773
75,000 - 249,999	15	124,000	235,000	.528
Over - 250,000	10	850,000	960,000	.885

STEP 2 - APPLICATION OF STRATUM RATIOS TO ACTUAL COUNTY ASSESSED VALUES

	(1)	(2)	(3)
Stratum	Actual County Personal Property Assessed Values	Ratio	County Market Value Related to Actual Assessed Value (Col. 1 ÷ Col. 2)
\$ 0 - 74,999	\$21,500,000	.773	\$ 27,813,713
75,000 - 249,999	23,000,000	.528	43,560,606
Over - 250,000	50,000,000	.885	56,497,175
WAC 458-53-070 (4)(a) Properties	0		0
Totals	\$94,500,000		÷ \$127,871,499 = 73.9
County Indicated Personal Property Ratio			73.9%

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-160, filed 2/8/96, effective 3/10/96; 94-05-064, § 458-53-160, filed 2/11/94, effective 3/14/94. Statutory Authority: RCW 84.48.075. 87-12-029 (Order PT 87-5), § 458-53-160, filed 5/29/87; 86-21-004 (Order PT 86-6), § 458-53-160, filed 10/2/86; 84-14-039 (Order PT 84-2), § 458-53-160, filed 6/29/84; 79-11-029 (Order PT 79-3), § 458-53-160, filed 10/11/79. Formerly WAC 458-52-100.]

WAC 458-53-200 Certification of county preliminary and indicated ratios—Review. (1) **Preliminary ratio certified to assessor.** The department shall annually determine the real property and personal property preliminary ratios for each county and shall certify these ratios to the county assessor on or before the first Monday in September.

(2) **Request for review.** Upon request of the assessor, a landowner, or an owner of an intercounty public utility or private car company, the department shall review the county's preliminary ratio with the requesting party and may make any changes indicated by such review. This review shall take place between the first and third Mondays of September. If the department does not certify the preliminary ratios as required by subsection (1) of this section, the review period shall extend for two weeks from the date of certification.

(3) **Certification of indicated ratios.** Prior to equalization of assessments pursuant to RCW 84.48.080 and after the third Monday of September, the department shall certify to each county assessor the indicated real and personal property ratios for that county.

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-200, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075. 84-14-039 (Order PT 84-2), § 458-53-200, filed 6/29/84; 79-11-029 (Order PT 79-3), § 458-53-200, filed 10/11/79. Formerly WAC 458-52-140.]

WAC 458-53-210 Appeals. If an assessor, landowner, or owner of an intercounty utility or private car company has reviewed the ratio study as provided in WAC 458-53-200, that person or company may appeal the department's indicated ratio determination, as certified for that county, to the state board of tax appeals pursuant to RCW 82.03.130(5). The appeal to the state board of tax appeals must be filed not later than fifteen days after the date of mailing of the certification.

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-210, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075. 84-14-039 (Order PT 84-2), § 458-53-210, filed 6/29/84; 79-11-029 (Order PT 79-3), § 458-53-210, filed 10/11/79. Formerly WAC 458-52-150.]

Chapter 458-57 WAC

STATE OF WASHINGTON ESTATE AND TRANSFER TAX REFORM ACT RULES

WAC

458-57-005	Nature of estate tax, definitions.
458-57-015	Valuation of property, property subject to estate tax, how to calculate the tax.
458-57-017	Property subject to generation-skipping transfer tax, how to calculate the tax, allocation of generation-skipping transfer exemption.
458-57-025	Determining the tax liability of nonresidents.
458-57-035	Washington estate tax return to be filed—Penalty for late filing—Interest on late payments—Waiver or cancellation of penalty—Application of payment.
458-57-045	Administration of the tax—Releases, amended returns, and refunds.
458-57-105	Nature of estate tax, definitions.
458-57-115	Valuation of property, property subject to estate tax, and how to calculate the tax.
458-57-125	Apportionment of tax when there are out-of-state assets.
458-57-135	Washington estate tax return to be filed—Penalty for late filing—Interest on late payments—Waiver or cancellation of penalty—Application of payment.
458-57-145	Administration of the tax—Releases, amended returns, refunds, and statute of limitations.
458-57-155	Farm deduction.
458-57-165	Escheat estates and absentee distributee (missing heir) property.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

458-57-010	Scope of rules. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-010, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100. Later promulgation, see WAC 458-57-510.
458-57-020	Nature of inheritance tax. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-020, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100. Later promulgation, see WAC 458-57-520.
458-57-030	Property subject to inheritance tax. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-030, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100. Later promulgation, see WAC 458-57-530.
458-57-040	Jurisdiction—Domicile of decedent. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-

	57-040, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-190	Deductions. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-190, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-050	Status and character of assets. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-050, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-200	Nondeductible items. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-200, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-060	Valuation. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-060, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-210	Exempt entities. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-210, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-070	Valuation—Real estate. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-070, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-220	Classes of beneficiaries—Heirs. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-220, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-080	Valuation—Gold and silver bullion. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-080, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-230	Exemptions—Class A. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-230, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-090	Valuation—Securities. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-090, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-240	Exemptions—Classes B and C. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-240, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-100	Closely held securities—Partnerships—Sole proprietorships. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-100, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-250	Exemptions—Aliens. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-250, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-110	Valuation of certain life insurance and annuity contracts—Valuation of shares in an open-end investment company. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-110, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-260	Insurance—Exemptions. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-260, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-120	Notes—Other intangibles. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-120, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-270	Prorating of exemptions. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-270, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-130	Real estate contracts. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-130, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-280	Prorating costs and fees. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-280, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-140	Cash on hand or on deposit. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-140, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-290	Credit for property previously taxed. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-290, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-150	Tangible personal property, household and personal effects. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-150, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-300	Computation formula—Property previously taxed—Class A. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-300, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-160	Valuation of annuities, life estates, terms for years, remainders, and reversions. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-160, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-310	Computation formula—Property previously taxed—Portion of net second estate to class other than A. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-310, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-170	Tables for valuation of annuities, life estates, terms for years, remainders, and reversions for estates of decedents dying on and after May 30, 1979. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-170, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-320	Computation formula—Property previously taxed—Specific bequest second estate to class other than A. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-320, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-180	Transfers prior to death—Computation of time—Valuation—Contemplation. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-180, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-330	Computation formula—Property previously taxed—Specific bequest and portion of net second estate to class other than A. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-330, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.

458-57-340	Federal credit for death taxes. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-340, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.		§ 458-57-480, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-350	Payment of tax. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-350, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-490	Qualified or special use—Application of statutory and regulatory provisions. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-490, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-360	Payment of tax from residue—Tax on tax. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-360, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-500	Miscellaneous provisions. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-500, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-370	Deferral of tax—Power of appointment—Minimum and maximum tax—Secured tax. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-370, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-510	Scope of rules. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-510, filed 8/11/83. Formerly WAC 458-57-010.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
458-57-380	Interest—Penalties. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-380, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-520	Nature of estate tax. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-520, filed 8/11/83. Formerly WAC 458-57-020.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
458-57-390	Interest on unpaid tax. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-390, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-530	Property subject to estate tax. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-530, filed 8/11/83. Formerly WAC 458-57-030.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
458-57-400	Refunds. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-400, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-540	Residents—Tax imposed. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-540, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.-200.
458-57-410	Escheat estates—Heirs—How located and proof. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-410, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100. Later promulgation, see WAC 458-57-640.	458-57-550	Valuation. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-550, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
458-57-420	Preliminary statement. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-420, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-560	Imposition of tax. [Statutory Authority: RCW 83.100.-100. 83-17-033 (Order IT 83-2), § 458-57-560, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
458-57-430	Inventory and appraisal—Inventory of assets. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-430, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-570	Tax returns to be filed. [Statutory Authority: RCW 83.100.100. 86-12-024 (Order 86-1), § 458-57-570, filed 5/28/86; 83-17-033 (Order IT 83-2), § 458-57-570, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.-200.
458-57-440	Inheritance tax returns—Duty to keep records and render statements—Filing of returns—Contents of returns. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-440, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-575	Waiver or cancellation of penalties. [Statutory Authority: RCW 82.32.300 and 83.100.070. 99-03-010, § 458-57-575, filed 1/8/99, effective 2/8/99.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
458-57-450	Payment of inheritance tax—Extension of time—Basis for—Reasonable cause—Undue hardship. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-450, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-580	Formula. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-580, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
458-57-460	Inheritance tax—Extension of time for payment—Failure to pay on time. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-460, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-590	Property "located in" Washington. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-590, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
458-57-470	Inheritance tax—Extension of time for payment—Security. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-470, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-600	Reciprocity exemption. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-600, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
458-57-480	Closely held businesses—What constitutes. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1),	458-57-610	Releases. [Statutory Authority: RCW 83.100.100. 86-12-024 (Order 86-1), § 458-57-610, filed 5/28/86; 83-17-033 (Order IT 83-2), § 458-57-610, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
		458-57-620	Amended returns—Final determination. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-620, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
		458-57-630	Administration—Rules. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-630, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.-200.
		458-57-640	Escheat estates—Heirs—How located and proof. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order

IT 83-2), § 458-57-640, filed 8/11/83. Formerly WAC 458-57-410.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.-200.

458-57-650 Interest and penalties. [Statutory Authority: RCW 83.100.100, 83-17-033 (Order IT 83-2), § 458-57-650, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.-200.

458-57-660 Refunds. [Statutory Authority: RCW 83.100.100, 83-17-033 (Order IT 83-2), § 458-57-660, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.

WAC 458-57-005 Nature of estate tax, definitions. (1)

Introduction. This rule describes the nature of Washington state's estate tax as it is imposed by chapter 83.100 RCW (Estate and Transfer Tax Act) for deaths occurring on or before May 16, 2005. The estate tax rules for deaths occurring on or after May 17, 2005, can be found in WAC 458-57-105 through 458-57-165. It also defines terms that will be used throughout chapter 458-57 WAC (Washington Estate and Transfer Tax Reform Act Rules).

(2) **Nature of Washington's estate tax.** The estate tax is neither a property tax nor an inheritance tax. It is a tax imposed on the transfer of the entire taxable estate and not upon any particular legacy, devise, or distributive share.

(a) The state of Washington operates under RCW 83.100.020, which references the Internal Revenue Code (IRC) as it existed **January 1, 2005**. The Washington State Estate and Transfer Tax Return and the instructions for completing the return can be found on the department's web site at <http://www.dor.wa.gov/> under the heading titled forms. The return and instructions can also be obtained by calling the estate tax section at 360-570-3265 (option 2).

(b) The estate tax does not apply to completed absolute lifetime transfers. Section 2035(d) of the Internal Revenue Code generally exempts such transfers. To the extent permitted by this provision, lifetime transfers are not subject to Washington estate tax. The state of Washington does not have a gift tax.

(3) **Definitions.** The following terms and definitions are applicable throughout chapter 458-57 WAC:

(a) "Decedent" means a deceased individual;

(b) "Department" means the department of revenue, the director of that department, or any employee of the department exercising authority lawfully delegated to him by the director;

(c) "Escheat" of an estate means that whenever any person dies, whether a resident of this state or not, leaving property in an estate subject to the jurisdiction of this state and without being survived by any person entitled to that same property under the laws of this state, such estate property shall be designated escheat property and shall be subject to the provisions of RCW 11.08.140 through 11.08.300;

(d) "Federal credit" means the maximum amount of the credit for state taxes allowed by section 2011 of the Internal Revenue Code. This credit is calculated using an "adjusted taxable estate" figure, which is simply the taxable estate, less sixty thousand dollars. However, when the term "federal credit" is used in reference to a generation-skipping transfer (GST), it means the maximum amount of the credit for state taxes allowed by section 2604 of the Internal Revenue Code;

(e) "Federal return" means any tax return required by chapter 11 (Estate tax) or chapter 13 (Tax on generation-skipping transfers) of the Internal Revenue Code;

(f) "Federal tax" means tax under chapter 11 (Estate tax) of the Internal Revenue Code. However, when used in reference to a GST, "federal tax" means the tax under chapter 13 (Tax on generation skipping transfers) of the Internal Revenue Code;

(g) "Generation-skipping transfer" or "GST" means a "generation-skipping transfer" as defined and used in section 2611 of the Internal Revenue Code;

(h) "Gross estate" means "gross estate" as defined and used in section 2031 of the Internal Revenue Code;

(i) "Internal Revenue Code" or "IRC" means the United States Internal Revenue Code of 1986, as amended or renumbered on January 1, 2005;

(j) "Nonresident" means a decedent who was domiciled outside Washington at the time of death;

(k) "Person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity and, to the extent permitted by law, any federal, state, or other governmental unit or subdivision or agency, department, or instrumentality thereof;

(l) "Person required to file the federal return" means any person required to file a return required by chapter 11 or 13 of the Internal Revenue Code, such as the personal representative of an estate, a transferor, trustee, or beneficiary of a generation-skipping transfer, or a qualified heir with respect to qualified real property, as defined and used in section 2032A(c) of the Internal Revenue Code;

(m) "Person responsible," means the person responsible for filing the federal and state returns and is the same person described in subsection (l) of this section;

(n) "Property," when used in reference to an estate tax transfer, means property included in the gross estate. However, when used in reference to a generation-skipping transfer, "property" means all real and personal property subject to the federal tax;

(o) "Resident" means a decedent who was domiciled in Washington at time of death;

(p) "State return" means the Washington Estate Tax Return required by RCW 83.100.050;

(q) "Transfer" means "transfer" as used in section 2001 of the Internal Revenue Code, or a disposition or cessation of qualified use as defined and used in section 2032A of the Internal Revenue Code; and

(r) "Trust" means "trust" under Washington law and any arrangement described in section 2652 of the Internal Revenue Code.

[Statutory Authority: RCW 83.100.047 and 83.100.200, 06-07-051, § 458-57-005, filed 3/9/06, effective 4/9/06. Statutory Authority: RCW 83.100.200, 02-18-078, § 458-57-005, filed 8/30/02, effective 9/30/02; 99-15-095, § 458-57-005, filed 7/21/99, effective 8/21/99.]

WAC 458-57-015 Valuation of property, property subject to estate tax, how to calculate the tax. (1) Introduction. This rule applies to deaths occurring on or before May 16, 2005, and is intended to help taxpayers determine and pay the correct amount of estate tax with their state return. The estate tax rules for deaths occurring on or after

May 17, 2005, can be found in WAC 458-57-105 through 458-57-165. It explains the necessary steps for determining the tax, and provides examples of how the federal estate tax unified credit relates to the amount that must be reported on the state return. (If a nonresident decedent has property located within Washington at the time of death refer to WAC 458-57-025 to determine the amount of tax payable to Washington.)

(2) **Valuation.** The value of every item of property in a decedent's gross estate is its fair market value. However, the personal representative may elect to use the alternate valuation method under section 2032 of the Internal Revenue Code (IRC), and in that case the value is the fair market value at that date, including the adjustments prescribed in that section of the IRC.

The valuation of certain farm property and closely held business property, properly made for federal estate tax purposes pursuant to an election authorized by section 2032A of the IRC, is binding for state estate tax purposes.

(3) **Property subject to estate tax.** The estate tax is imposed on transfers of the taxable estate, as defined in section 2051 of the IRC.

(a) The first step in determining the value of the decedent's taxable estate is to determine the total value of the gross estate. The value of the gross estate includes the value of all the decedent's tangible and intangible property at the time of death. In addition, the gross estate may include property in which the decedent did not have an interest at the time of death. A decedent's gross estate for federal estate tax purposes may therefore be different from the same decedent's estate for local probate purposes. Sections 2031 through 2046 of the IRC provide a detailed explanation of how to determine the value of the gross estate. The following are examples of items that may be included in a decedent's gross estate and not in the probate estate:

- (i) Certain property transferred by the decedent during the decedent's lifetime without adequate consideration;
- (ii) Property held jointly by the decedent and others;
- (iii) Property over which the decedent had a general power of appointment;
- (iv) Proceeds of certain policies of insurance on the decedent's life annuities; and
- (v) Dower and curtesy of a surviving spouse or a statutory estate in lieu thereof.

(b) The value of the taxable estate is determined by subtracting the authorized exemption and deductions from the value of the gross estate. Under various conditions and limitations, deductions are allowable for expenses, indebtedness, taxes, losses, charitable transfers, and transfers to a surviving spouse. Sections 2051 through 2056A of the IRC provide a detailed explanation of how to determine the value of the taxable estate.

(4) **Imposition of Washington's estate tax.** A tax in an amount equal to the federal credit is imposed by RCW 83.100.030 upon the taxable estate of every decedent. Washington's estate tax is due in every case in which the gross estate tax exceeds the unified credit as specified in section 2010 of the IRC, and there is credit available to be taken, with the exception that all applicable federal estate tax credits are to be applied to the estate's tax liability before the state estate tax liability is computed.

(a) The following tables are taken from the IRC. They show the maximum amount of federal credit available for state death taxes. The amount of federal credit computed multiplied by the appropriate fraction is the amount of Washington estate tax due.

Calculate the credit for state death taxes

(i) Step one - calculate the adjusted taxable estate:

Worksheet

Adjusted Taxable Estate

1. Taxable estate (from federal form 706, Part 2, Line 3) \$.
-
2. Adjustment \$60,000
3. Adjusted taxable estate. Subtract line 2 from line 1. Use this amount to compute maximum credit for state death taxes in Table (B).

(ii) Step two - apply Table B to the adjusted taxable estate to calculate the credit for state death taxes:

(A)—Taxable estate, equal to or more than...	(B)—and, Taxable estate, less than...	(C)—Base credit on amount in column (A)	(D)—Rate of credit on excess over amount in column (A) (AS A PER-CENT)
\$ 0	\$ 40,000	\$ 0	0.0
\$ 40,000	\$ 90,000	\$ 0	0.8
\$ 90,000	\$ 140,000	\$ 400	1.6
\$ 140,000	\$ 240,000	\$ 1,200	2.4
\$ 240,000	\$ 440,000	\$ 3,600	3.2
\$ 440,000	\$ 640,000	\$ 10,000	4.0
\$ 640,000	\$ 840,000	\$ 18,000	4.8
\$ 840,000	\$ 1,040,000	\$ 27,600	5.6
\$ 1,040,000	\$ 1,540,000	\$ 38,800	6.4
\$ 1,540,000	\$ 2,040,000	\$ 70,800	7.2
\$ 2,040,000	\$ 2,540,000	\$ 106,800	8.0
\$ 2,540,000	\$ 3,040,000	\$ 146,800	8.8
\$ 3,040,000	\$ 3,540,000	\$ 190,800	9.6
\$ 3,540,000	\$ 4,040,000	\$ 238,800	10.4
\$ 4,040,000	\$ 5,040,000	\$ 290,800	11.2
\$ 5,040,000	\$ 6,040,000	\$ 402,800	12.0
\$ 6,040,000	\$ 7,040,000	\$ 522,800	12.8
\$ 7,040,000	\$ 8,040,000	\$ 650,800	13.6
\$ 8,040,000	\$ 9,040,000	\$ 786,800	14.4
\$ 9,040,000	\$ 10,040,000	\$ 930,800	15.2
\$ 10,040,000	\$ 1,082,800	16.0

(iii) Step three - multiply the credit for state death taxes by the percentage for the year of the decedent's death:

Year	Percentage
2002	75%
2003	50%
2004	25%
2005	0%

(b) **Examples.** The following are examples of how the estate tax is applied. These examples should be used only as a general guide. The tax status of other situations must be determined after a review of all of the facts and circumstances.

(i) A married woman dies in the year 2002, leaving her husband and children surviving. Her taxable estate, computed after allowance of the marital deduction, is \$1,100,000. The adjusted taxable estate is \$1,040,000 (\$1,100,000 - \$60,000).

The Washington state estate tax due is \$29,100 (\$38,800 multiplied by .75).

(ii) A married man dies with all of his property passing to his wife, outright under a community property agreement. His marital deduction under section 2056 of the IRC reduces his federal taxable estate below the applicable exclusion amount. Because his taxable estate is below the applicable exclusion amount, while no Washington estate tax is due a return must be filed.

(iii) The federal taxable estate of a decedent is \$100,000 (before gifts are added, which place the estate into a taxable category). The adjusted taxable estate is \$40,000 for state estate tax purposes (\$100,000 - \$60,000). No Washington estate tax is due because section 2011 of the IRC provides for no credit unless the adjusted taxable estate exceeds \$40,000.

*Gifts can push an estate into a taxable category.

(iv) A widow dies in 2003, leaving a taxable estate of \$1,030,000. The amount of tax payable to the state of Washington is computed as follows: Taxable estate of \$1,030,000 less \$60,000 equals an adjusted taxable estate of \$970,000. The state death tax credit (IRC section 2011) on the first \$840,000 is \$27,600. The state death tax credit for the \$130,000 increment (\$970,000 - \$840,000) is \$7,280 (5.6% of \$130,000). The total Washington estate tax liability is \$17,440 (\$27,600 + \$7,280) x .50 however, the state estate tax cannot exceed the adjusted gross estate tax (line 14) which in this case would be \$12,300. Therefore, the state estate tax would be \$12,300 because it is the lower of the two. This occurs in a small window over the applicable exemption threshold amount.

[Statutory Authority: RCW 83.100.047 and 83.100.200. 06-07-051, § 458-57-015, filed 3/9/06, effective 4/9/06. Statutory Authority: RCW 83.100.200. 02-18-078, § 458-57-015, filed 8/30/02, effective 9/30/02; 99-15-095, § 458-57-015, filed 7/21/99, effective 8/21/99.]

WAC 458-57-017 Property subject to generation-skipping transfer tax, how to calculate the tax, allocation of generation-skipping transfer exemption. (1) Introduction. The generation-skipping transfer tax was repealed effective May 17, 2005. If the taxable termination or distribution is the result of a death that occurred on or after May 17, 2005, there is no Washington generation-skipping transfer tax. This repeal does not affect generation-skipping transfer taxable terminations or distributions that result from a death that occurred on or before May 16, 2005. This rule applies only to taxable terminations or distributions that occur as the result of a death that occurred on or before May 16, 2005.

(2) This rule is intended to help taxpayers determine and pay the correct amount of generation-skipping transfer (GST) tax with their state return. It explains what property is subject to the tax, the calculation of the tax, and the allocation of the generation-skipping transfer exemption.

(3) Property subject to generation-skipping transfer tax. If real or tangible personal property subject to federal GST tax, as defined and used in section 2611 of the IRC, is located in this state or if the trust has its principal place of administration in this state at the time of the generation-skipping transfer, a tax in an amount equal to the federal credit provided by section 2604 of the IRC is imposed on every generation-skipping transfer.

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(4) Calculation of the tax. The allowable Washington credit equals the federal GST tax on the transfer multiplied by 5% (.05). If state GST tax credit was paid to another state(s), the taxpayer must attach evidence of the credit paid to the Washington return. The Washington State Estate and Transfer Tax Return and the instructions for calculating the GST tax can be found on the department's web site at <http://www.dor.wa.gov/> under the heading titled forms. The return and instructions can also be obtained by calling the estate tax section at 360-570-3265, option 2.

(5) Allocation of generation-skipping transfer exemption. The allocation(s) of the GST exemption for Washington purposes will be the same as the allocation(s) made for federal GST exemption purposes up to the amount allowed by section 2631 of the IRC.

[Statutory Authority: RCW 83.100.047 and 83.100.200. 06-07-051, § 458-57-017, filed 3/9/06, effective 4/9/06. Statutory Authority: RCW 83.100.200. 02-18-078, § 458-57-017, filed 8/30/02, effective 9/30/02.]

WAC 458-57-025 Determining the tax liability of nonresidents. (1) Introduction. This rule applies to deaths occurring on or before May 16, 2005, and discusses how property of nonresident decedents is taxed if that property is located within Washington at the time of death. The estate tax rules for deaths occurring on or after May 17, 2005, can be found in WAC 458-57-105 through 458-57-165.

(2) Nonresident decedents and Washington's estate tax. If any decedent has tangible personal property and/or real property located in Washington state at the time of death, that property is subject to Washington's estate tax.

(a) The reciprocity exemption. A nonresident decedent's estate is exempt from Washington's estate tax if the nonresident's state of domicile exempts the property of Washington residents from estate, inheritance, or other death taxes normally imposed by the domicile state. The nonresident decedent must have been a citizen and resident of the United States at the time of death. Also, at the time of death the laws of the domicile state must have made specific reference to this state, or must have contained a reciprocal provision under which nonresidents of the domicile state were exempted from applicable death taxes with respect to property or transfers otherwise subject to the jurisdiction of that state.

In those instances where application of this provision results in loss of available federal credit which would otherwise be allowed for federal tax purposes, Washington will absorb that proportional share which is applicable to property within the jurisdiction of this state. Application of this provision will not act to increase the total tax obligation of the estate.

(b) Property of a nonresident's estate which is located in Washington. A nonresident decedent's estate may have either real property or tangible personal property located in Washington at the time of death.

(i) All real property physically situated in this state, with the exception of federal trust lands, and all interests in such property, are deemed "located in" Washington. Such interests include, but are not limited to:

- (A) Leasehold interests;
- (B) Mineral interests;

(C) The vendee's (but not the vendor's) interest in an executory contract for the purchase of real property;

(D) Trusts (beneficial interest in trusts of realty); and

(E) Decedent's interest in jointly owned property (e.g., tenants in common, joint with right of survivorship).

(ii) Tangible personal property of a nonresident decedent shall be deemed located in Washington only if:

(A) At the time of death the property is situated in Washington; and

(B) It is present for a purpose other than transiting the state.

(iii) For example, consider a nonresident decedent who was a construction contractor doing business as a sole proprietor. The decedent was constructing a large building in Washington. At the time of death, any of the decedent's equipment that was located at the job site in Washington, such as tools, earthmovers, bulldozers, trucks, etc., would be deemed located in Washington for estate tax purposes. Also, the decedent had negotiated and signed a purchase contract for speculative property in another part of Washington. For estate tax purposes, that real property should also be considered a part of the decedents' estate located in Washington.

(c) **Formula to calculate Washington's estate tax for nonresident decedents.** The amount of tax payable to Washington for a nonresident decedent equals the amount of federal credit multiplied by a fraction, the numerator of which is the value of the property located in Washington, and the denominator of which is the value of the decedent's gross estate. Restated: $\text{Federal Credit} \times (\text{Gross Value of Property in Washington} / \text{Decedent's Gross Estate}) = \text{Amount of Washington Estate Tax Due}$. This formula uses the gross value determined for estate tax purposes of any property located in Washington. No reduction will be allowed for any mortgages, liens, or other encumbrances or debts associated with such property except to the extent allowable in computing the gross estate for estate tax purposes.

[Statutory Authority: RCW 83.100.047 and 83.100.200. 06-07-051, § 458-57-025, filed 3/9/06, effective 4/9/06. Statutory Authority: RCW 83.100.200. 02-18-078, § 458-57-025, filed 8/30/02, effective 9/30/02; 99-15-095, § 458-57-025, filed 7/21/99, effective 8/21/99.]

WAC 458-57-035 Washington estate tax return to be filed—Penalty for late filing—Interest on late payments—Waiver or cancellation of penalty—Application of payment. (1) **Introduction.** This rule applies to deaths occurring on or before May 16, 2005, and discusses the due date for filing of Washington's estate tax return and payment of the tax due. It explains that a penalty is imposed on the taxes due with the state return when the return is not filed on or before the due date, and that interest is imposed when the tax due is not paid by the due date. The rule also discusses the limited circumstances under which the law allows the department of revenue to cancel or waive the penalty, and the procedure for requesting that cancellation or waiver. The Washington State Estate and Transfer Tax Return and the instructions for completing return can be found on the department's web site at <http://www.dor.wa.gov/> under the heading titled forms. The return and instructions can also be obtained by calling the estate tax section at 360-570-3265, option 2. The estate tax rules for deaths occurring on or after May 17, 2005, can be found in WAC 458-57-105 through 458-57-165.

[Title 458 WAC—p. 550]

(2) Filing the state return—Payment of the tax due.

The Washington estate tax return (state return) referred to in RCW 83.100.050 and a copy of the federal estate tax return (federal return) and all supporting documentation is due nine months from the date of the decedent's death. The tax due with the state return must be paid on or before the due date.

(a) Section 6075 of the Internal Revenue Code (IRC) requires that the federal return be filed within nine months after the date of the decedent's death. In the case of any estate for which a federal return must be filed under the current IRC, a state return must be filed with the Washington state department of revenue (department) on or before the date on which the federal return is required to be filed. (This may include a federally granted extension of time for filing. See (b) of this subsection.)

(b) Section 6081 of the IRC permits the granting of a reasonable extension of time for filing the federal return, generally not to exceed six months from the original due date. If a federal extension of the time to file is granted, the personal representative is required to file a true copy of that extension with the department on or before the original due date, or within thirty days of the issuance of the federal extension, whichever is later. RCW 83.100.050(2). If the personal representative fails to do so, the department may require the personal representative to file the state return on the date that the federal return would have been due had the federal extension not been granted.

(c) When the personal representative obtains an extension of time for payment of the federal tax, or elects to pay that tax in installments, the personal representative may choose to pay the state estate tax over the same time period and in the same manner as the federal tax. The personal representative is required to file a true copy of that extension with the department on or before the original due date, or within thirty days of the issuance of the federal extension, whichever is later. RCW 83.100.060(2). If the personal representative fails to do so, the department may require the personal representative to pay the state tax on the date that the federal tax would have been due had the federal extension not been granted.

(d) The department shall issue a release when Washington's estate tax has been paid. Upon issuance of a release, all property subject to the tax shall be free of any claim for the tax by the state. RCW 83.100.080.

(3) **The late filing penalty.** If the state return is not filed by the due date, or any extension of the state return's due date, the person required to file the return may be subject to a late filing penalty.

(a) **When does the penalty apply?** This penalty applies if the person required to file the return has not timely filed the state return with the department prior to being notified by the department, in writing, of the necessity to file the state return. The late payment penalty is equal to five percent of the tax due for each month during which the state return has not been filed, not to exceed the lesser of twenty-five percent of the tax or one thousand five hundred dollars. RCW 83.100.070.

(b) **How is the penalty computed?** The penalty is the equivalent of five percent for each month, but is accrued on a daily basis for those periods less than a month. For any portion of a month, it is calculated by taking the five percent monthly rate and dividing it by the number of days from the

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beginning of the month through the date the return is filed, including the filing date.

For example, assume a state return is due on February 3rd but is not filed until April 20th of the same year. The state return is delinquent starting with February 4th. The amount of tax due with the state return is \$10,000.

(i) The penalty should be computed as follows:

Feb 4-Feb 28	\$10,000 tax at 5% per month	\$446.43
Mar 1-Mar 31	\$10,000 tax at 5% per month	\$500.00
Apr 1-Apr 20	\$10,000 tax at .1667% x 17 days	\$333.34
Total delinquent penalty due on April 20th filing date		\$1,297.77

(ii) In this example, the first month (February) is a partial month. February has twenty-eight days, the five percent monthly rate is divided by twenty-eight days to arrive at a daily rate of .0017857 (or .17857 percent). The daily rate is then multiplied by the twenty-five days of penalty accrual to arrive at the total percentage of penalty due for that portion of a month (.0017857 x 25 days = .044643 or 4.4643 percent). The second calendar month (March) is complete and incurs the full five percent penalty. The last portion of a month is a total of seventeen days, including both April 4th and April 20th. Since April has thirty days total, the five percent monthly rate is divided by the thirty days in April to arrive at a daily rate of .001667 (or .1667 percent). The daily rate is then multiplied by the twenty days of penalty accrual to arrive at the total percentage of penalty due for that portion of a month (.001667 x 20 days = .03334 or 3.334 percent).

(4) **Interest is imposed on late payment.** The department is required by law to impose interest on the tax due with the state return if payment of the tax is not made on or before the due date. RCW 83.100.070. Interest applies to the delinquent tax only, and is calculated from the due date until the date of payment. Interest imposed for periods after December 31, 1996, will be computed at the annual variable interest rate described in RCW 82.32.050(2). Interest imposed for periods prior to January 1, 1997, will be computed at the rate of twelve percent per annum.

(5) **Waiver or cancellation of penalties.** RCW 83.100.-070(3) authorizes the department to waive or cancel the penalty for late filing of the state return under limited circumstances.

(a) **Claiming the waiver.** A request for a waiver or cancellation of penalties should contain all pertinent facts and be accompanied by such proof as may be available. The request must be made in the form of a letter and submitted to the department's special programs division. The person responsible bears the burden of establishing that the circumstances were beyond the responsible person's control and directly caused the late filing. The department will cancel or waive the late filing penalty imposed on the state return when the delinquent filing is the result of circumstances beyond the control of the person responsible for filing of the state return. The person responsible for filing the state return is the same person who is responsible for filing the federal return.

(b) **Circumstances eligible for waiver.** In order to qualify for a waiver of penalty the circumstances beyond the control of the person responsible for filing the state return must directly cause the late filing of the return. These circumstances are generally immediate, unexpected, or in the nature

of an emergency. Such circumstances result in the person responsible not having reasonable time or opportunity to obtain an extension of their due date (see subsection (2)(b) of this section) or to otherwise timely file the state return. Circumstances beyond the control of the responsible person include, but are not necessarily limited to, the following:

(i) The delinquency was caused by the death or serious illness of the person responsible for filing the state return or a member of the responsible person's immediate family. In order to qualify for penalty waiver, the death or serious illness must directly prevent the person responsible from having reasonable time or opportunity to arrange for timely filing of the state return. Generally, the death or serious illness must have occurred within sixty days prior to the due date, provided that a valid state return is filed within sixty days of the due date.

(ii) The delinquency was caused by an unexpected and unavoidable absence of the person responsible. Generally, this absence must be within sixty days prior to the due date, provided that a valid state return is filed within sixty days of the due date. "Unavoidable absence of the person responsible" does not include absences because of business trips, vacations, personnel turnover, or personnel terminations.

(iii) The delinquency was caused by the destruction by fire or other casualty of estate records necessary for completion of the state return.

(iv) An estate tax return was timely filed, but was filed incorrectly with another state due to an issue of the decedent's domicile.

(v) A Washington estate tax return was properly prepared and timely filed, but was sent to the location for filing of the federal estate tax return.

(6) **Waiver or cancellation of interest.** Title 83 RCW (Estate Taxation) does not provide any circumstances that allow for waiver of the interest, even though penalty may be waived under limited circumstances (see subsection (5) of this section).

(7) **Application of payment towards liability.** The department will apply taxpayer payments first to interest, next to penalties, and then to the tax, without regard to any direction of the taxpayer.

[Statutory Authority: RCW 83.100.047 and 83.100.200. 06-07-051, § 458-57-035, filed 3/9/06, effective 4/9/06. Statutory Authority: RCW 83.100.-200. 02-18-078, § 458-57-035, filed 8/30/02, effective 9/30/02; 00-19-012, § 458-57-035, filed 9/7/00, effective 10/8/00; 99-15-095, § 458-57-035, filed 7/21/99, effective 8/21/99.]

WAC 458-57-045 Administration of the tax—Releases, amended returns, and refunds. (1) Introduction.

This rule applies to deaths occurring on or before May 16, 2005. This rule contains information on releases issued by the department for state estate taxes paid. It explains how and when an amended state return should be filed. Information on escheat estates and absentee distributees (missing heirs) can be found at RCW 458-57-165. The estate tax rules for deaths occurring on or after May 17, 2005, can be found in WAC 458-57-105 through 458-57-165.

(2) **Releases.** When the state estate taxes have been paid in full, the department will issue a release to the personal representative upon request. The request will include a completed state return and a copy of the completed federal return,

if one was filed. The final determination of the amount of taxes due from the estates that have filed federal returns is contingent on receipt of a copy of the final closing letter issued by the Internal Revenue Service (IRS). The department may require additional information to substantiate information provided by those estates that are not required to file federal returns. The release issued by the department will not bind or estop the department in the event of a misrepresentation of facts.

(3) **Amended returns.** An amended state return must be filed with the department within five days after any amended federal return is filed with the IRS and must be accompanied by a copy of the amended federal return.

(a) Any time that the amount of federal tax due is adjusted or when there is a final determination of the federal tax due the person responsible must give written notification to the department. This notification must include copies of any final examination report, any compromise agreement, the state tax closing letter, and any other available evidence of the final determination.

(b) If any amendment, adjustment or final determination results in additional state estate tax due, interest will be calculated on the additional tax due at the annual variable interest rate described in RCW 82.32.050(2).

(4) **Refunds.** Only the personal representative or the personal representative's retained counsel may make a claim for a refund of overpaid tax. If the application for refund, with supporting documents, is filed within four months after an adjustment or final determination of tax liability, the department shall pay interest until the date the refund is mailed. If the application for refund, with supporting documents, is filed after four months after the adjustment or final determination, the department shall pay interest only until the end of the four-month period. Any refund issued by the department will include interest at the existing statutory rate defined in RCW 82.32.050(2), computed from the date the overpayment was received by the department until the date it is mailed to the estate's representative. RCW 83.100.130(2).

[Statutory Authority: RCW 83.100.047 and 83.100.200. 06-07-051, § 458-57-045, filed 3/9/06, effective 4/9/06. Statutory Authority: RCW 83.100.200. 02-18-078, § 458-57-045, filed 8/30/02, effective 9/30/02; 00-19-012, § 458-57-045, filed 9/7/00, effective 10/8/00; 99-15-095, § 458-57-045, filed 7/21/99, effective 8/21/99.]

WAC 458-57-105 Nature of estate tax, definitions. (1)

Introduction. This rule applies to deaths occurring on or after May 17, 2005, and describes the nature of Washington state's estate tax as it is imposed by chapter 83.100 RCW (Estate and Transfer Tax Act). It also defines terms that will be used throughout chapter 458-57 WAC (Washington Estate and Transfer Tax Reform Act rules). The estate tax rule on the nature of estate tax and definitions for deaths occurring on or before May 16, 2005, can be found in WAC 458-57-005.

(2) **Nature of Washington's estate tax.** The estate tax is neither a property tax nor an inheritance tax. It is a tax imposed on the transfer of the entire taxable estate and not upon any particular legacy, devise, or distributive share.

(a) **Relationship of Washington's estate tax to the federal estate tax.** The department administers the estate tax under the legislative enactment of chapter 83.100 RCW, which references the Internal Revenue Code (IRC) as it

existed January 1, 2005. Federal estate tax law changes enacted after January 1, 2005, do not apply to the reporting requirements of Washington's estate tax. The department will follow federal Treasury Regulations section 20 (Estate tax regulations), in existence on January 1, 2005, to the extent they do not conflict with the provisions of chapter 83.100 RCW or 458-57 WAC. For deaths occurring January 1, 2009, and after, Washington has different estate tax reporting and filing requirements than the federal government. There will be estates that must file an estate tax return with the state of Washington, even though they are not required to file with the federal government. The Washington state estate and transfer tax return and the instructions for completing the return can be found on the department's web site at <http://www.dor.wa.gov/> under the heading titled forms. The return and instructions can also be requested by calling the department's estate tax section at 360-570-3265, option 2.

(b) **Lifetime transfers.** Washington estate tax taxes lifetime transfers only to the extent included in the federal gross estate. The state of Washington does not have a gift tax.

(3) **Definitions.** The following terms and definitions are applicable throughout chapter 458-57 WAC:

(a) "Absentee distributee" means any person who is the beneficiary of a will or trust who has not been located;

(b) "Decedent" means a deceased individual;

(c) "Department" means the department of revenue, the director of that department, or any employee of the department exercising authority lawfully delegated to him by the director;

(d) "Escheat" of an estate means that whenever any person dies, whether a resident of this state or not, leaving property in an estate subject to the jurisdiction of this state and without being survived by any person entitled to that same property under the laws of this state, such estate property shall be designated escheat property and shall be subject to the provisions of RCW 11.08.140 through 11.08.300;

(e) "Federal return" means any tax return required by chapter 11 (Estate tax) of the Internal Revenue Code;

(f) "Federal tax" means tax under chapter 11 (Estate tax) of the Internal Revenue Code;

(g) "Federal taxable estate" means the taxable estate as determined under chapter 11 of the Internal Revenue Code without regard to:

(i) The termination of the federal estate tax under section 2210 of the IRC or any other provision of law; and

(ii) The deduction for state estate, inheritance, legacy, or succession taxes allowable under section 2058 of the IRC.

(h) "Gross estate" means "gross estate" as defined and used in section 2031 of the Internal Revenue Code;

(i) "Internal Revenue Code" or "IRC" means, for purposes of this chapter, the United States Internal Revenue Code of 1986, as amended or renumbered on January 1, 2005;

(j) "Person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity and, to the extent permitted by law, any federal, state, or other governmental unit or subdivision or agency, department, or instrumentality thereof;

(k) "Person required to file the federal return" means any person required to file a return required by chapter 11 of the

Internal Revenue Code, such as the personal representative (executor) of an estate;

(l) "Property," when used in reference to an estate tax transfer, means property included in the gross estate;

(m) "Resident" means a decedent who was domiciled in Washington at time of death;

(n) "State return" means the Washington estate tax return required by RCW 83.100.050;

(o) "Taxpayer" means a person upon whom tax is imposed under this chapter, including an estate or a person liable for tax under RCW 83.100.120;

(p) "Transfer" means "transfer" as used in section 2001 of the Internal Revenue Code. However, "transfer" does not include a qualified heir disposing of an interest in property qualifying for a deduction under RCW 83.100.046;

(q) "Washington taxable estate" means the "federal taxable estate":

(i) Less one million five hundred thousand dollars for decedents dying before January 1, 2006, or two million dollars for decedents dying on or after January 1, 2006;

(ii) Less the amount of any deduction allowed under RCW 83.100.046 as a farm deduction;

(iii) Less the amount of the Washington qualified terminable interest property (QTIP) election made under RCW 83.100.047;

(iv) Plus any amount deducted from the federal estate pursuant to IRC § 2056 (b)(7) (the federal QTIP election);

(v) Plus the value of any trust (or portion of a trust) of which the decedent was income beneficiary and for which a Washington QTIP election was previously made pursuant to RCW 83.100.047; and

(vi) Less any amount included in the federal taxable estate pursuant to IRC § 2044 (inclusion of amounts for which a federal QTIP election was previously made).

[Statutory Authority: RCW 83.100.047 and 83.100.200. 06-07-051, § 458-57-105, filed 3/9/06, effective 4/9/06.]

WAC 458-57-115 Valuation of property, property subject to estate tax, and how to calculate the tax. (1) Introduction. This rule applies to deaths occurring on or after May 17, 2005, and is intended to help taxpayers prepare their return and pay the correct amount of Washington state estate tax. It explains the necessary steps for determining the tax and provides examples of how the tax is calculated. The estate tax rule on valuation of property etc., for deaths occurring on or before May 16, 2005, can be found in WAC 458-57-015.

(2) Determining the property subject to Washington's estate tax.

(a) **General valuation information.** The value of every item of property in a decedent's gross estate is its date of death fair market value. However, the personal representative may elect to use the alternate valuation method under section 2032 of the Internal Revenue Code (IRC), and in that case the value is the fair market value at that date, including the adjustments prescribed in that section of the IRC. The valuation of certain farm property and closely held business property, properly made for federal estate tax purposes pursuant to an election authorized by section 2032A of the 2005 IRC, is binding on the estate for state estate tax purposes.

(b) **How is the gross estate determined?** The first step in determining the value of a decedent's Washington taxable estate is to determine the total value of the gross estate. The value of the gross estate includes the value of all the decedent's tangible and intangible property at the time of death. In addition, the gross estate may include property in which the decedent did not have an interest at the time of death. A decedent's gross estate for federal estate tax purposes may therefore be different from the same decedent's estate for local probate purposes. Sections 2031 through 2046 of the IRC provide a detailed explanation of how to determine the value of the gross estate.

(c) **Deductions from the gross estate.** The value of the federal taxable estate is determined by subtracting the authorized exemption and deductions from the value of the gross estate. Under various conditions and limitations, deductions are allowable for expenses, indebtedness, taxes, losses, charitable transfers, and transfers to a surviving spouse. While sections 2051 through 2056A of the IRC provide a detailed explanation of how to determine the value of the taxable estate the following areas are of special note:

(i) Funeral expenses.

(A) Washington is a community property state and under *Estate of Julius C. Lang v. Commissioner*, 97 Fed. 2d 867 (9th Cir. 1938) affirming the reasoning of *Wittwer v. Pemberton*, 188 Wash. 72, 76, 61 P.2d 993 (1936) funeral expenses reported for a married decedent must be halved. Administrative expenses are not a community debt and are reported at 100%.

(B) **Example.** John, a married man, died in 2005 with an estate valued at \$2.5 million. On Schedule J of the federal estate tax return listed following as expenses:

SCHEDULE J - Funeral Expenses and Expenses Incurred in Administering Property Subject to Claims			
Item Number	Description	Expense Amount	Total Amount
1	A. Funeral expenses: Burial and services	\$4,000	
	(1/2 community debt)	(\$2,000)	
	Total funeral expenses.		
	B. Administration expenses:		
	1. Executors' commissions - amount estimated/agreed upon paid. (Strike out the words that do not apply.)		\$10,000
	2. Attorney fees - amount estimated/agreed upon/paid. (Strike out the words that do not apply.)		\$5,000

The funeral expenses, as a community debt, were properly reported at 50% and the other administration expenses were properly reported at 100%.

(ii) **Mortgages and liens on real property.** Real property listed on Schedule A should be reported at its fair market value without deduction of mortgages or liens on the property. Mortgages and liens are reported and deducted using Schedule K.

(iii) **Washington qualified terminable interest property (QTIP) election.**

(A) A personal representative may choose to make a larger or smaller percentage or fractional QTIP election on the Washington return than taken on the federal return in order to reduce Washington estate liability while making full use of the federal unified credit.

(B) Section 2056 (b)(7) of the IRC states that a QTIP election is irrevocable once made. Section 2044 states that the value of any property for which a deduction was allowed under section 2056 (b)(7) must be included in the gross estate of the recipient. Similarly, a QTIP election made on the Washington return is irrevocable, and a surviving spouse who receives property for which a Washington QTIP election was made must include the value of the remaining property in his or her gross estate for Washington estate tax purposes. If the value of property for which a federal QTIP election was made is different, this value is not includible in the surviving spouse's gross estate for Washington estate tax purposes; instead, the value of property for which a Washington QTIP election was made is includible.

(C) The Washington QTIP election must adequately identify the assets, by schedule and item number, included as part of the election, either on the return or, if those assets have not been determined when the estate tax return is filed, on a statement to that effect, prepared when the assets are definitively identified. Identification of the assets is necessary when reviewing the surviving spouse's return, if a return is required to be filed. This statement may be filed with the department at that time or when the surviving spouse's estate tax return is filed.

(D) **Example.** A decedent dies in 2009 with a gross estate of \$5 million. The decedent established a QTIP trust for the benefit of her surviving spouse in an amount to result in no federal estate tax. The federal unified credit is \$3.5 million for the year 2009. In 2009 the Washington statutory deduction is \$2 million. To pay no Washington estate tax the personal representative of the estate has the option of electing a larger percentage or fractional QTIP election resulting in the maximization of the individual federal unified credit and paying no tax for Washington purposes.

The federal estate tax return reflected the QTIP election with a percentage value to pay no federal estate tax. On the Washington return the personal representative elected QTIP treatment on a percentage basis in an amount so no Washington estate tax is due. Upon the surviving spouse's death the assets remaining in the Washington QTIP trust must be included in the surviving spouse's gross estate.

(iv) **Washington qualified domestic trust (QDOT) election.**

(A) A deduction is allowed for property passing to a surviving spouse who is not a U.S. citizen in a qualified domestic trust (a "QDOT"). An executor may elect to treat a trust as

a QDOT on the Washington estate tax return even though no QDOT election is made with respect to the trust on the federal return; and also may forgo making an election on the Washington estate tax return to treat a trust as a QDOT even though a QDOT election is made with respect to the trust on the federal return. An election to treat a trust as a QDOT may not be made with respect to a specific portion of an entire trust that otherwise would qualify for the marital deduction, but if the trust is actually severed pursuant to authority granted in the governing instrument or under local law prior to the due date for the election, a QDOT election may be made for any one or more of the severed trusts.

(B) A QDOT election may be made on the Washington estate tax return with respect to property passing to the surviving spouse in a QDOT, and also with respect to property passing to the surviving spouse if the requirements of IRC section 2056 (d)(2)(B) are satisfied. Unless specifically stated otherwise herein, all provisions of sections 2056(d) and 2056A of the IRC, and the federal regulations promulgated thereunder, are applicable to a Washington QDOT election. Section 2056A(d) of the IRC states that a QDOT election is irrevocable once made. Similarly, a QDOT election made on the Washington estate tax return is irrevocable. For purposes of this subsection, a QDOT means, with respect to any decedent, a trust described in IRC section 2056A(a), provided, however, that if an election is made to treat a trust as a QDOT on the Washington estate tax return but no QDOT election is made with respect to the trust on the federal return:

(I) The trust must have at least one trustee that is an individual citizen of the United States resident in Washington state, or a corporation formed under the laws of the state of Washington, or a bank as defined in IRC section 581 that is authorized to transact business in, and is transacting business in, the state of Washington (the trustee required under this subsection is referred to herein as the "Washington Trustee");

(II) The Washington Trustee must have the right to withhold from any distribution from the trust (other than a distribution of income) the Washington QDOT tax imposed on such distribution;

(III) The trust must be maintained and administered under the laws of the state of Washington; and

(IV) The trust must meet the additional requirements intended to ensure the collection of the Washington QDOT tax set forth in (c)(iv)(D) of this subsection.

(C) The QDOT election must adequately identify the assets, by schedule and item number, included as part of the election, either on the return, or, if those assets have not been determined when the estate tax return is filed, or a statement to that effect, prepared when the assets are definitively identified. This statement may be filed with the department at that time or when the first taxable event with respect to the trust is reported to the department.

(D) In order to qualify as a QDOT, the following requirements regarding collection of the Washington QDOT tax must be satisfied.

(I) If a QDOT election is made to treat a trust as a QDOT on both the federal and Washington estate tax returns, the Washington QDOT election will be valid so long as the trust satisfies the statutory requirements of Treas. Reg. Section 20.2056A-2(d).

(II) If an election is made to treat a trust as a QDOT only on the Washington estate tax return, the following rules apply:

If the fair market value of the trust assets exceeds \$2 million as of the date of the decedent's death, or, if applicable, the alternate valuation date, the trust must comply with Treas. Reg. Section 20.2056A-2 (d)(1)(i), except that: If the bank trustee alternative is used, the bank must be a bank that is authorized to transact business in, and is transacting business in, the state of Washington, or a bond or an irrevocable letter of credit meeting the requirements of Treas. Reg. Section 20.2056A-2 (d)(1)(i)(B) or (C) must be furnished to the department.

If the fair market value of the trust assets is \$2 million or less as of the date of the decedent's death, or, if applicable, the alternate valuation date, the trust must comply with Treas. Reg. Section 20.2056A-2 (d)(1)(ii), except that not more than 35 percent of the fair market value of the trust may be comprised of real estate located outside of the state of Washington.

A taxpayer may request approval of an alternate plan or arrangement to assure the collection of the Washington QDOT tax. If such plan or arrangement is approved by the department, such plan or arrangement will be deemed to meet the requirements of this (c)(iv)(D).

(E) The Washington estate tax will be imposed on:

(I) Any distribution before the date of the death of the surviving spouse from a QDOT (except those distributions excepted by IRC section 2056A (b)(3)); and

(II) The value of the property remaining in the QDOT on the date of the death of the surviving spouse (or the spouse's deemed date of death under IRC section 2056A (b)(4)). The tax is computed using Table W. The tax is due on the date specified in IRC section 2056A (b)(5). The tax shall be reported to the department in a form containing the information that would be required to be included on federal Form 706-QDT with respect to the taxable event, and any other information requested by the department, and the computation of the Washington tax shall be made on a supplemental statement. If Form 706-QDT is required to be filed with the Internal Revenue Service with respect to a taxable event, a copy of such form shall be provided to the department. Neither the residence of the surviving spouse or other QDOT beneficiary nor the situs of the QDOT assets are relevant to the application of the Washington tax. In other words, if Washington state estate tax would have been imposed on property passing to a QDOT at the decedent's date of death

but for the deduction allowed by this subsection (c)(iv)(E)(II), the Washington tax will apply to the QDOT at the time of a taxable event as set forth in this subsection (c)(iv)(E)(II) regardless of, for example, whether the distribution is made to a beneficiary who is not a resident of Washington, or whether the surviving spouse was a nonresident of Washington at the date of the surviving spouse's death.

(F) If the surviving spouse of the decedent becomes a citizen of the United States and complies with the requirements of section 2056A (b)(12) of the IRC, then the Washington tax will not apply to: Any distribution before the date of the death of the surviving spouse from a QDOT; or the value of the property remaining in the QDOT on the date of the death of the surviving spouse (or the spouse's deemed date of death under IRC section 2056A (b)(4)).

(d) **Washington taxable estate.** The estate tax is imposed on the "Washington taxable estate." The "Washington taxable estate" means the "federal taxable estate":

(i) Less one million five hundred thousand dollars for decedents dying before January 1, 2006, or two million dollars for decedents dying on or after January 1, 2006;

(ii) Less the amount of any deduction allowed under RCW 83.100.046 as a farm deduction;

(iii) Less the amount of the Washington qualified terminable interest property (QTIP) election made under RCW 83.100.047;

(iv) Plus any amount deducted from the federal estate pursuant to IRC § 2056 (b)(7) (the federal QTIP election);

(v) Plus the value of any trust (or portion of a trust) of which the decedent was income beneficiary and for which a Washington QTIP election was previously made pursuant to RCW 83.100.047; and

(vi) Less any amount included in the federal taxable estate pursuant to IRC § 2044 (inclusion of amounts for which a federal QTIP election was previously made).

(e) **Federal taxable estate.** The "federal taxable estate" means the taxable estate as determined under chapter 11 of the IRC without regard to:

(i) The termination of the federal estate tax under section 2210 of the IRC or any other provision of law; and

(ii) The deduction for state estate, inheritance, legacy, or succession taxes allowable under section 2058 of the IRC.

(3) Calculation of Washington's estate tax.

(a) The tax is calculated by applying Table W to the Washington taxable estate. See (d) of this subsection for the definition of "Washington taxable estate."

Table W

Washington Taxable Estate is at Least	But Less Than	The Amount of Tax Equals Initial Tax Amount	Plus Tax Rate %	Of Washington Taxable Estate Value Greater Than
\$0	\$1,000,000	\$0	10.00%	\$0
\$1,000,000	\$2,000,000	\$100,000	14.00%	\$1,000,000
\$2,000,000	\$3,000,000	\$240,000	15.00%	\$2,000,000
\$3,000,000	\$4,000,000	\$390,000	16.00%	\$3,000,000
\$4,000,000	\$6,000,000	\$550,000	17.00%	\$4,000,000
\$6,000,000	\$7,000,000	\$890,000	18.00%	\$6,000,000
\$7,000,000	\$9,000,000	\$1,070,000	18.50%	\$7,000,000
\$9,000,000		\$1,440,000	19.00%	\$9,000,000

(b) Examples.

(i) A widow dies on September 25, 2005, leaving a gross estate of \$2.1 million. The estate had \$100,000 in expenses deductible for federal estate tax purposes. Examples of allowable expenses include funeral expenses, indebtedness, property taxes, and charitable transfers. The Washington taxable estate equals \$500,000.

Gross estate	\$2,100,000
Less allowable expenses deduction	- \$100,000
Less \$1,500,000 statutory deduction	- \$1,500,000
Washington taxable estate	\$500,000

Based on Table W, the estate tax equals \$50,000 (\$500,000 x 10% Washington estate tax rate).

(ii) John dies on October 13, 2005, with an estate valued at \$3 million. John left \$1.5 million to his spouse, Jane, using the unlimited marital deduction. There is no Washington estate tax due on John's estate.

Gross estate	\$3,000,000
Less unlimited marital deduction	- \$1,500,000
Less \$1,500,000 statutory deduction	- \$1,500,000
Washington taxable estate	\$0

Although Washington estate tax is not due, the estate is still required to file a Washington estate tax return along with a photocopy of the filed and signed federal return and all supporting documentation.

[Statutory Authority: RCW 83.100.047 and 83.100.200. 06-07-051, § 458-57-115, filed 3/9/06, effective 4/9/06.]

WAC 458-57-125 Apportionment of tax when there are out-of-state assets. (1) Introduction. This rule applies

$$(\$2,800,000 (\$3,100,000 - \$300,000) / \$3,100,000) \times \$100,000 = \$90,323$$

The estate does not have to pay estate tax to the state of Arizona in order to reduce the tax owed to Washington. The estate tax due to Washington is \$90,323.

(4) When is property located in Washington? A decedent's estate may have either real property or tangible personal property located in Washington at the time of death.

(a) All real property physically situated in this state, with the exception of federal trust lands, and all interests in such property, are deemed "located in" Washington. Such interests include, but are not limited to:

- (i) Leasehold interests;
- (ii) Mineral interests;
- (iii) The vendee's (but not the vendor's) interest in an executory contract for the purchase of real property;
- (iv) Trusts (beneficial interest in trusts of realty); and
- (v) Decedent's interest in jointly owned property (e.g., tenants in common, joint with right of survivorship).

(b) Tangible personal property of a nonresident decedent shall be deemed located in Washington only if:

- (i) At the time of death the property is situated in Washington; and
- (ii) It is present for a purpose other than transiting the state.

to deaths occurring on or after May 17, 2005, and discusses how to apportion the estate tax when there is out-of-state property included in the gross estate. The estate tax rule on apportionment of estate tax for deaths occurring on or before May 16, 2005, can be found in WAC 458-57-025.

(2) Calculation of apportioned tax. Apportionment is allowed for estate property located outside of Washington. The amount of tax is determined using Table W (see WAC 458-57-115) multiplied by a fraction. The numerator of the fraction is the value of the property located in Washington. The denominator of the fraction is the value of the decedent's gross estate. Property qualifying for the farm deduction is excluded from the numerator and denominator of the fraction. See WAC 458-57-155 (Farm deduction) for additional information on the farm deduction.

(3) Example. A widow dies in 2006 leaving a gross estate of \$3.1 million. The estate had \$100,000 in expenses deductible for federal estate tax purposes. The decedent also owned a home in Arizona valued at \$300,000.

Gross estate	\$3,100,000
Less allowable expenses deduction	- \$100,000
Less \$2,000,000 statutory deduction	- \$2,000,000
Washington taxable estate	\$1,000,000

Based on the tax table, the estate tax equals \$100,000 (\$1,000,000 x 10% Washington estate tax rate). Because the decedent owned an out-of-state asset, the tax due to Washington is prorated by multiplying the amount of tax owed by a fraction. The numerator of the fraction is the value of the property located in Washington divided by the denominator that equals the value of the decedent's gross estate. The fraction is then multiplied by the amount of tax.

(c) Example. A nonresident decedent was a construction contractor doing business as a sole proprietor. The decedent was constructing a large building in Washington. At the time of death, any of the decedent's equipment that was located at the job site in Washington, such as tools, earthmovers, bulldozers, trucks, etc., would be deemed located in Washington for estate tax purposes. Also, the decedent had negotiated and signed a purchase contract for speculative property in another part of Washington. For estate tax purposes, that real property should also be considered a part of the decedent's estate located in Washington.

[Statutory Authority: RCW 83.100.047 and 83.100.200. 06-07-051, § 458-57-125, filed 3/9/06, effective 4/9/06.]

WAC 458-57-135 Washington estate tax return to be filed—Penalty for late filing—Interest on late payments—Waiver or cancellation of penalty—Application of payment. (1) Introduction. This rule applies to deaths occurring on or after May 17, 2005, and discusses the due date for filing of Washington's estate tax return and payment of the tax due. It explains that a penalty is imposed on the taxes due with the state return when the return is not filed on or before the due date, and that interest is imposed when the tax due is not paid by the due date. The rule also discusses the

limited circumstances under which the law allows the department of revenue to cancel or waive the penalty, and the procedure for requesting that cancellation or waiver. The estate tax rule on the estate tax return etc., for deaths occurring on or before May 16, 2005, can be found in WAC 458-57-035.

(2) **Estate tax return.** The Washington state estate and transfer tax return and the instructions for completing return can be found on the department's web site at <http://www.dor.wa.gov/> under the heading titled forms. The return and instructions can also be obtained by calling the estate tax section at 360-570-3265, option 2.

(3) **Filing the state return—Payment of the tax due.**

(a) The Washington estate tax return (state return) referred to in RCW 83.100.050 is due nine months after the date of the decedent's death. The following is the list of documents that must accompany the state return:

(i) A copy of the filed Federal Form 706 United States Estate (and Generation-skipping Transfer), 706NA, or 706QDT Tax Return(s), signed by the person required to file;

(ii) All supporting documentation for completed federal return schedules;

(iii) If applicable, a copy of an approved Form 4768 Application for Extension of Time to File a Return and/or Pay U.S. Estate (and Generation-skipping Transfer) Taxes;

(iv) Copy(ies) of any Washington schedules that differ from the federal form schedules, along with supporting documentation;

(v) Photocopy of death certificate;

(vi) Photocopy of letters of administration, if any;

(vii) Copy of the will and trust(s), if any;

(viii) Copy of other state estate or inheritance return(s) and proof of payment(s), if any; and

(ix) Payment, if tax is due.

The tax due with the state return must be paid on or before the due date.

(b) In any case where a federal return must be filed under the current Internal Revenue Code (IRC) or in the year 2009 and thereafter, if the gross estate of a decedent exceeds two million dollars, a state return must be filed with the Washington state department of revenue (department) on or before the date that the federal return is required or would have been required to be filed. (This may include a federally granted extension of time for filing. See subsection (2)(b).) Section 6075 of the IRC requires that the federal return be filed within nine months after the date of the decedent's death.

(c) **Extensions to file or extensions for payment of tax.**

(i) Section 6081 of the IRC permits the granting of a reasonable extension of time for filing the federal return, generally not to exceed six months from the original due date. If a federal extension of the time to file is granted, the personal representative is required to file a true copy of that extension or installment approval with the department on or before the original due date, or within thirty days of the issuance of the federal extension or installment approval, whichever is later. RCW 83.100.050(2). If the personal representative fails to do so, the department may require the personal representative to file the state return on the date that the federal return would have been due had the federal extension not been granted.

(ii) When the personal representative obtains an extension of time for payment of the federal tax, or elects to pay that tax in installments, the personal representative may

choose to pay the state estate tax over the same time period and in the same manner as the federal tax. The personal representative is required to file a true copy of that extension with the department on or before the original due date, or within thirty days of the issuance of the federal extension, whichever is later. RCW 83.100.060(2). If the personal representative fails to do so, the department may require the personal representative to pay the state tax on the date that the federal tax would have been due had the federal extension not been granted.

(iii) **Extensions to file for estates that are not required to file a federal estate tax return.** For those estates that are not required to file a federal return, the personal representative may request a one-time automatic six-month extension to file. The request must be in writing and acknowledge that interest will begin to accrue from the original due date of the state return. The written request for the extension must be made prior to the date the state return is due.

(iv) **Extension to pay tax owed for estates that are not required to file a federal estate tax return.** For those estates that are not required to file a federal return, the personal representative may request an extension of time for paying the tax owed when payment of the tax would cause an undue hardship upon the estate or for a payment plan for closely held businesses. The granting of an extension of time to pay the tax owed or for a payment plan for closely held business will not operate to prevent the running of interest. RCW 83.100.070.

Hardship extensions to pay.

In any case in which the department finds that payment, on the due date prescribed, or any part of a deficiency would impose undue hardship upon the estate, the department may extend the time for payment for a period or periods not to exceed one year for any one period and for all periods not to exceed four years from the original due date of payment.

The extension will not be granted upon a general statement of hardship. The term "undue hardship" means more than an inconvenience to the estate. It must appear that a substantial financial loss, for example, due to the sale of property at a sacrifice price, will result to the estate from making payment of the tax owed at the date payment is due. If a market exists, a sale of property at the current market price is not ordinarily considered as resulting in an undue hardship. No extension will be granted if the deficiency is due to negligence or intentional disregard of rules and regulations or to fraud with intent to evade the tax.

An application for such an extension must be in writing and must contain, or be supported by, information in a written statement declaring that it is made under penalties of perjury showing the undue hardship that would result to the estate if the extension were refused. The application, with the supporting information, must be filed with the department. When received, it will be examined, and, if possible, within thirty days will be denied, granted, or tentatively granted subject to certain conditions of which the personal representative will be notified. The department will not consider an application for such an extension unless it is applied for on or before the due date for payment. If the personal representative desires to obtain an additional extension, it must be applied for on or before the date of the expiration of the previous extension.

The amount of tax owed for which an extension is granted, along with interest as determined by RCW 83.100-.070, shall be paid on or before the expiration of the period of extension without the necessity of notice and demand from the department.

(v) **Payment plans for closely held businesses.** The department will abide by the provisions of section 6166 of the 2005 IRC for the granting of payment plans for closely held businesses.

(4) **The late filing penalty.** If the state return is not filed by the due date, or any extension of the state return's due date, the person required to file the return may be subject to a late filing penalty.

(a) **When does the penalty apply?** Penalty applies if the person required to file the return has not timely filed the state return with the department prior to being notified by the department, in writing, of the necessity to file the state return. The late payment penalty is equal to five percent of the tax due for each month during which the state return has not been filed, not to exceed the lesser of twenty-five percent of the tax or one thousand five hundred dollars. RCW 83.100.070.

(b) **How is the penalty computed?** The penalty is the equivalent of five percent for each month, but is accrued on a daily basis for those periods less than a month. For any portion of a month, it is calculated by taking the five percent monthly rate and dividing it by the number of days from the beginning of the month through the date the return is filed, including the filing date.

For example, a state return is due on February 3rd but is not filed until April 20th of the same year. The state return is delinquent starting with February 4th. The amount of tax due with the state return is \$10,000.

(i) The penalty is computed as follows:

Feb 4-Feb 28	\$10,000 tax at 5% per month	\$446.43
Mar 1-Mar 31	\$10,000 tax at 5% per month	\$500.00
Apr 1-Apr 20	\$10,000 tax at .1667% x 20 days	\$333.34
Total delinquent penalty due on April 20th filing date		\$1,297.77

(ii) In this example, the first month (February) is a partial month. February has twenty-eight days, the five percent monthly rate is divided by twenty-eight days to arrive at a daily rate of .0017857 (or .17857 percent). The daily rate is then multiplied by the twenty-five days of penalty accrual to arrive at the total percentage of penalty due for that portion of a month (.0017857 x 25 days = .044643 or 4.4643 percent). The second calendar month (March) is complete and incurs the full five percent penalty. The last portion of a month is a total of seventeen days, including both April 4th and April 20th. Since April has thirty days total, the five percent monthly rate is divided by the thirty days in April to arrive at a daily rate of .001667 (or .1667 percent). The daily rate is then multiplied by the twenty days of penalty accrual to arrive at the total percentage of penalty due for that portion of a month (.001667 x 20 days = .03334 or 3.334 percent).

(5) **Interest is imposed on late payment.** The department is required by law to impose interest on the tax due with the state return if payment of the tax is not made on or before the due date. RCW 83.100.070. Interest applies to the delinquent tax only, and is calculated from the due date until the

date of payment. Interest imposed for periods after December 31, 1996, will be computed at the annual variable interest rate described in RCW 82.32.050(2). Interest imposed for periods prior to January 1, 1997, will be computed at the rate of twelve percent per annum.

(6) **Waiver or cancellation of penalties.** RCW 83.100-.070(3) authorizes the department to waive or cancel the penalty for late filing of the state return under limited circumstances.

(a) **Claiming the waiver.** A request for a waiver or cancellation of penalties should contain all pertinent facts and be accompanied by such proof as may be available. The request must be made in the form of a letter and submitted to the department's special programs division. The person responsible bears the burden of establishing that the circumstances were beyond their control and directly caused the late filing. The department will cancel or waive the late filing penalty imposed on the state return when the delinquent filing is the result of circumstances beyond the control of the person responsible for filing of the state return. The person responsible for filing the state return is the same person who is responsible for filing the federal return.

(b) **Circumstances eligible for waiver.** In order to qualify for a waiver of penalty the circumstances beyond the control of the person responsible for filing the state return must directly cause the late filing of the return. These circumstances are generally immediate, unexpected, or in the nature of an emergency. Such circumstances result in the person not having reasonable time or opportunity to obtain an extension of their due date (see subsection (2)(b)) or to otherwise timely file the state return. Circumstances beyond the control include, but are not necessarily limited to, the following:

(i) The delinquency was caused by the death or serious illness of the person responsible for filing the state return or a member of the immediate family. In order to qualify for penalty waiver, the death or serious illness must directly prevent them from having reasonable time or opportunity to arrange for timely filing of the state return. Generally, the death or serious illness must have occurred within sixty days prior to the due date, provided that a valid state return is filed within sixty days of the due date.

(ii) The delinquency was caused by an unexpected and unavoidable absence of the person responsible. Generally, this absence must be within sixty days prior to the due date, provided that a valid state return is filed within sixty days of the due date. "Unavoidable absence of the person responsible" does not include absences because of business trips, vacations, personnel turnover, or personnel terminations.

(iii) The delinquency was caused by the destruction by fire or other casualty of estate records necessary for completion of the state return.

(iv) An estate tax return was timely filed, but was filed incorrectly with another state due to an issue of the decedent's domicile.

(v) A Washington estate tax return was properly prepared and timely filed, but was sent to the location for filing of the federal estate tax return.

(7) **Waiver or cancellation of interest.** Title 83 RCW (Estate taxation) does not provide any circumstances that allow for waiver of the interest, even though penalty may be

waived under limited circumstances (see subsection (6) of this section).

(8) **Application of payment towards liability.** The department will apply taxpayer payments first to interest, next to penalties, and then to the tax, without regard to any direction of the taxpayer.

[Statutory Authority: RCW 83.100.047 and 83.100.200. 06-07-051, § 458-57-135, filed 3/9/06, effective 4/9/06.]

WAC 458-57-145 Administration of the tax—Releases, amended returns, refunds, and statute of limitations. (1) **Introduction.** This rule applies to deaths occurring on or after May 17, 2005, and contains information on releases issued by the department for state estate taxes paid. It explains how and when an amended state return should be filed and information on refunds and statute of limitations. The estate tax rule on releases, amended returns etc., for deaths occurring on or before May 16, 2005, can be found in WAC 458-57-045.

(2) **Releases.** When the state estate taxes have been paid in full, the department will issue a release to the personal representative. The final determination of the amount of taxes due from the estates that have filed federal returns is contingent upon receipt of a copy of the final closing letter issued by the Internal Revenue Service (IRS). The department may require additional information to substantiate information provided by those estates that are not required to file federal returns. The release issued by the department will not bind or estop the department in the event of a misrepresentation of facts.

(3) **Amended returns.** An amended state return must be filed with the department within five days of amending a federal return with the IRS and must be accompanied by a copy of the amended federal return. For those estates that are not required to file a federal return, an amended estate tax return must be received within three years from the date the original estate tax return was filed or within two years of paying the tax, whichever is later.

(a) Any time that the amount of federal tax due is adjusted or when there is a final determination of the federal tax due, the person responsible for filing must give written notification to the department. This notification must include copies of any final examination report, any compromise agreement, the state tax closing letter, and any other available evidence of the final determination.

(b) If any amendment, adjustment or final determination results in additional state estate tax due, interest will be calculated on the additional tax due at the annual variable interest rate described in RCW 82.32.050.

(4) **Refunds.** Only the personal representative or the personal representative's retained counsel may make a claim for a refund of overpaid tax. If the application for refund, with supporting documents, is filed within four months after an adjustment or final determination of tax liability, the department shall pay interest until the date the refund is mailed. If the application for refund, with supporting documents, is filed after four months after the adjustment or final determination, the department shall pay interest only until the end of the four-month period. Any refund issued by the department will include interest at the existing statutory rate defined in RCW 82.32.050, computed from the date the over-

payment was received by the department until the date it is mailed to the estate's representative. RCW 83.100.130.

(5) **Statute of limitations.**

(a) No assessment or correction of an assessment for additional taxes, penalties, or interest due may be made by the department more than four years after the close of the calendar year in which a Washington return is due under this chapter, including any extension of time for filing, except upon a showing of fraud or of misrepresentation of a material fact by the taxpayer.

(b) For persons liable for tax under RCW 83.100.120, the period for assessment or correction of an assessment extend an additional three years beyond the period described in (a) of this subsection.

(c) A taxpayer may extend the periods of limitation under (a) or (b) of this subsection by executing a written waiver. The execution of the waiver shall also extend the period for making a refund as provided in RCW 83.100.130.

[Statutory Authority: RCW 83.100.047 and 83.100.200. 06-07-051, § 458-57-145, filed 3/9/06, effective 4/9/06.]

WAC 458-57-155 Farm deduction. (1) **Introduction.** This rule applies to deaths occurring on or after May 17, 2005, and is intended to help taxpayers determine if the estate is eligible for the farm deduction and to correctly calculate the deduction.

(2) **Definitions.** The following terms and definitions are applicable throughout chapter 458-57 WAC:

(a) "Active management" means the making of the management decisions of a farm, other than the daily operating decisions;

(b) "Farm" includes stock, dairy, poultry, fruit, furbearing animal, and truck farms; plantation; ranches; nurseries; ranges; greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities; and orchards and woodlands;

(c) "Farming purposes" means:

(i) Cultivating the soil or raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of animals on a farm;

(ii) Handling, drying, packing, grading, or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant, or operator of the farm regularly produces more than one-half of the commodity so treated; and

(iii)(A) The planting, cultivating, caring for, or cutting of trees; or

(B) The preparation, other than milling, of trees for market.

(d) "Member of the family" means, with respect to any individual, only:

(i) An ancestor of the individual;

(ii) Spouse of the individual;

(iii) A lineal descendant of the individual; of the individual's spouse, or a parent of the individual; or

(iv) The spouse of any lineal descendant described in (d)(iii) of this subsection.

A legally adopted child of an individual shall be treated as the child of such individual by blood.

(e) "Qualified heir" means, with respect to any property, a member of the decedent's family who acquired property, or to whom property passed, from the decedent.

(f)(i) "Qualified real property" means real property which was acquired from or passed from the decedent to a qualified heir of the decedent and which, on the date of the decedent's death, was being used for a qualified use by the decedent or a member of the decedent's family, but only if:

(A) Fifty percent or more of the adjusted value of the gross estate consists of the adjusted value of real or personal property which:

(I) On the date of the decedent's death, was being used for a qualified use by the decedent or a member of the decedent's family; and

(II) Was acquired from or passed from the decedent to a qualified heir of the decedent;

(B) Twenty-five percent or more of the adjusted value of the gross estate consists of the adjusted value of real property which meets the requirements of (f)(i)(A)(II) and (C) of this subsection; and

(C) During the eight-year period ending on the date of the decedent's death there have been periods aggregating five years or more during which:

(I) The real property was owned by the decedent or a member of the decedent's family and used for a qualified use by the decedent or a member of the decedent's family; and

(II) There was material participation by the decedent or a member of the decedent's family in the operation of the farm. For the purposes of this subsection (f)(i)(C)(II), material participation shall be determined in a manner similar to the manner used for purposes of section 1402 (a)(1) of the Internal Revenue Code (IRC).

(ii) For the purposes of this subsection, the term "adjusted value" means:

(A) In the case of the gross estate, the value of the gross estate, determined without regard to any special valuation under section 2032A of the IRC, reduced by any amounts allowable as a deduction under section 2053 (a)(4) of the IRC; or

(B) In the case of any real or personal property, the value of the property for purposes of chapter 11 of the IRC, determined without regard to any special valuation under section 2032A of the IRC, reduced by an amount allowable as a deduction in respect of such property under section 2053 (a)(4) of the IRC.

(g) "Qualified use" means the property is used as a farm for farming purposes. In the case of real property which meets the requirements of (f)(i)(C) of this subsection, residential buildings and related improvements on the real property occupied on a regular basis by the owner or lessee for the purpose of operating or maintaining the real property, and roads, buildings, and other structures and improvements functionally related to the qualified use shall be treated as real property devoted to the qualified use. For tangible personal property eligible for a deduction under subsection (1)(b) of this section, "qualified use" means the property is used primarily for farming purposes on a farm.

(h) "Qualified woodland" means any real property which:

(i) Is used in timber operations; and

(ii) Is an identifiable area of land such as an acre or other area for which records are normally maintained in conducting timber operations.

(i) "Timber operations" means:

(i) The planting, cultivating, caring for, or cutting of trees; or

(ii) The preparation, other than milling, of trees for market.

(3) Farm deduction—Qualification criteria.

(a) A deduction from the Washington taxable estate is available for the value of qualified real property and the value of any tangible personal property used by the decedent or a member of the decedent's family for a qualified use. In certain circumstances an estate of a tenant farmer may deduct the value of agricultural personal property. See subsection (7) of this section. If the estate is eligible for the federal special valuation of farmland it would also be eligible for the state deduction. The estate does not have to elect special valuation treatment for federal purposes in order to take the state deduction. Unlike the federal special valuation for farmland there is no requirement that the heir to the land and equipment continue farming.

(b) There are several criteria that must be met before the deduction can be taken:

(i) Decedent at the time of his or her death was a citizen or resident of the United States;

(ii) Fifty percent or more of the estate's adjusted value must be in agricultural real and personal property;

(iii) On the date of the decedent's death the real and personal property must have been used for a qualified use (farming) by the decedent or a member of the decedent's family;

(iv) The real and personal property must pass from the decedent to a qualified heir; and

(v) Twenty-five percent or more of the estate consists of agricultural real property (land) that was actively managed by the decedent or the decedent's family.

(4) **What does "acquired from the decedent" mean?** Property shall be considered to have been acquired from or to have passed from the decedent if:

(a) The property is so considered under section 1014(b) of the IRC;

(b) The property is acquired by any person from the estate; or

(c) The property is acquired by any person from a trust, to the extent the property is includible in the gross estate of the decedent.

(5) **Treatment of qualified real property held as a community property.** If the decedent and the decedent's surviving spouse at any time held qualified real property as community property, the interest of the surviving spouse in the property shall be taken into account under this section.

(6) **Value of trees growing on woodlands.** In the case of qualified woodland, the value of trees growing on the woodland may be deducted if otherwise qualified under this section.

(7) **Tenant farmers.** If the following criteria are met, the estate of a tenant farmer may deduct from the Washington taxable estate the value of the agricultural personal property:

(a) Decedent at the time of his or her death was a citizen or resident of the United States;

(b) Fifty percent or more of the estate adjusted value must be in agricultural personal property;

(c) On the date of the decedent's death the personal property must have been used for a qualified use (farming) by the decedent or a member of the decedent's family; and

(d) The personal property must pass from the decedent to a qualified heir.

(8) Examples.

(a) The decedent died May 18, 2005, with an adjusted gross estate valued at \$4 million. The decedent was a dry land wheat farmer and owned 2000 acres of land valued at \$2 million (\$1,000 per acre) and \$500,000 in farm equipment. The decedent was a U.S. citizen, owned and worked the acreage for the last twenty years, and left the farm to his son, a qualified heir. The value of the farm acreage and equipment exceeds the required 50% or more of the adjusted gross estate ($\$2,000,000 + \$500,000 > \$4,000,000 \times 50\%$). The value of the 2000 acres and the farm equipment can be deducted from the decedent's federal taxable estate. In this example estate tax is not due. The calculations are shown below:

Federal taxable estate	\$4,000,000
Less \$2,500,000 farm deduction	- \$2,500,000
Less \$1,500,000 statutory exemption	- \$1,500,000
Washington taxable estate	\$0

Although Washington estate tax is not due, the estate is still required to file a Washington estate tax return along with a photocopy of the filed and signed federal return and all supporting documentation.

(b) The decedent died August 28, 2005, with an adjusted gross estate valued at \$5 million. The decedent was a hay farmer and owned 600 acres of land valued at \$1.8 million (\$3,000 per acre) and \$500,000 in farm equipment. The decedent was a U.S. citizen, owned and worked the acreage for the last twenty years, and left the farm to his son, a qualified heir. The value of the farm acreage and equipment did not meet the required 50% or more of the adjusted gross estate, therefore, the estate cannot deduct the value of the farm and farm equipment ($\$1,800,000 + \$500,000 < \$5,000,000 \times 50\%$). Here are the calculations:

Federal taxable estate	\$4,000,000
Less \$1,500,000 statutory exemption	- \$1,500,000
Washington taxable estate	\$3,500,000

Based on the tax table, the estate owes \$470,000 in Washington estate tax.

(c) The decedent died May 23, 2005, with an adjusted gross estate valued at \$1.6 million. The decedent was a tenant hay farmer that owned \$400,000 of hay in storage that had been harvested but not sold and \$800,000 in farm equipment. The decedent was a U.S. citizen, used the farm equipment in a qualified use for the last six years, and left the equipment to his son-in-law, a qualified heir. The value of the farm equipment met the required 50% or more of the adjusted gross estate so it can be deducted from the decedent's federal taxable estate ($\$800,000 = \$1,600,000 \times 50\%$). In this example no estate tax is due. The calculations are shown below:

Federal taxable estate	\$1,600,000
Less \$800,000 farm deduction	- \$800,000
Less \$1,500,000 statutory exemption	- \$1,500,000
Washington taxable estate	\$0

Although Washington estate tax is not due, the estate is still required to file a Washington estate tax return along with a photocopy of the filed and signed federal return and all supporting documentation.

(d) The decedent died April 7, 2006, with an adjusted gross estate valued at \$2.5 million. The decedent owned 100 acres of timberland valued at \$100,000 (\$1,000 per acre), timber valued at \$800,000 (\$80,000 per acre), 200 acres of pasture land valued at \$500,000 (\$2,500 per acre) and \$50,000 in farm equipment. The decedent was a U.S. citizen, owned and worked the acreage for the last ten years, and left the timber and farm land to his daughter, a qualified heir. The value of the timberland and farm acreage and equipment exceeded the required 50% or more of the adjusted gross estate therefore the estate can deduct the value of the timber and farm land and farm equipment ($\$100,000 + \$800,000 + \$500,000 + \$50,000 > \$2,500,000 \times 50\%$). The calculations are shown below:

Federal taxable estate	\$2,500,000
Less \$1,450,000 farm deduction	- \$1,450,000
Less \$2,000,000 statutory exemption	- \$2,000,000
Washington taxable estate	\$0

Although Washington estate tax is not due, the estate is still required to file a Washington estate tax return along with a photocopy of the filed and signed federal return and all supporting documentation.

[Statutory Authority: RCW 83.100.047 and 83.100.200. 06-07-051, § 458-57-155, filed 3/9/06, effective 4/9/06.]

WAC 458-57-165 Escheat estates and absentee distributee (missing heir) property. (1) Introduction. This rule explains the notification requirements to the department and other procedural information for potential escheat estates and the procedures for reporting absentee distributee property.

(2) Escheat estates.

(a) Escheat of an estate means that a person dies, whether a resident of this state or not, leaving property subject to the jurisdiction of this state without being survived by any person entitled to the property under RCW 11.04.015 (descent and distribution) and the property reverts to the state.

(b) **Notification to the department of a potential escheat estate.** The department must be promptly notified in writing of the potential escheat on revenue form 85 0030-1 Notice of Escheat Property when a decedent dies without a will and has no known intestate heirs. This form can be found on the department's web site at <http://dor.wa.gov/> under the tab titled forms. The form can also be obtained by calling the estate tax section at 360-570-3265, option 2.

(c) **Department may elect to serve as personal representative.**

(i) The department may elect to serve as the personal representative of an escheat estate under RCW 11.28.120.

The department will review the submitted notice of escheat property and then elect or decline to serve as personal representative. A copy of this election is mailed to the person reporting the escheat property.

(ii) **Written notice to the department of proceedings.** If the department declines to serve as personal representative, the appointed personal representative must serve the department with written notice at least twenty days prior to any hearing on proceedings involving the valuation or sale of property, on any petition for the allowance of fees, and on all interim reports, final accounts or petitions for the determination of heirship. Failure to comply with the notice provisions of RCW 11.08.170 could result in any orders being voided.

(d) **Oversight of estate when department declines to serve as personal representative—Opposition to nonintervention powers—Review of pleadings and petitions.** The department supervises escheat property during probate. The department has the duty to protect and conserve escheat property for the benefit of the permanent common school fund until the property is forwarded to the state treasurer or the real property is deeded over to the department of natural resources. Because of the duty to protect and conserve escheat property, the department will oppose the granting of nonintervention powers to the personal representative. The department will review all pleadings and petitions to determine the progression of probate and to determine if fees and expenses charged to the estate are appropriate.

(e) **Heirs of escheat estates.** Heirs to an estate may be located after the estate escheats to the state. The personal representative of an escheat estate or a claimed heir must provide the department with all information and documentary evidence available that supports the heir's claim. All supporting documents must be in the English language when submitted to the department. The English translation of any foreign document shall be authenticated as reasonably required by the department.

(i) Under RCW 11.08.240 all claims for escheated property must be made within seven years from the date of issuance of letters testamentary or of administration. The claim is made to the court having original jurisdiction of the estate and a copy served upon the department.

(ii) In all cases where there is a court hearing or the taking of a deposition on the question of a claimed heir, the personal representative shall give the department twenty days written notice of such hearing or matter.

(iii) The personal representative must give the department at least twenty days written notice of the hearing on the final account and petition for distribution.

(iv) The department has no statutory authority to pay interest on escheat refunds.

(3) Absentee distributee (missing heir).

(a) Absentee distributee means any person who is a beneficiary of a will or trust who has not been located. If a personal representative cannot locate a beneficiary of a will or trust the personal representative is required to follow the procedures outlined in RCW 11.76.200 through 11.76.230.

(b) Appointment of agent—Bond.

(i) When an estate has been or is about to be distributed by decree of the court to any person who has not been located, the personal representative must petition the court to appoint an agent for the purposes of representing the interests

of the absentee distributee and to take possession and charge of the property for the benefit of the absentee person.

(ii) The agent shall make, subscribe, and file an oath for the faithful performance of his or her duties, and shall give a bond to the state, to be approved by the court before the agent receives the property.

(iii) The agent shall hold the property for three years. If the absentee distributee is not found or does not come forward to make a claim, the property must be turned over to the county treasurer. Any property not in the form of cash shall be sold under order of the court and all funds after deducting a reasonable sum for expenses and services of the agent. The expenses and the fees of the agent are fixed by the court.

(c) **County treasurer.** The county treasurer is required to issue a triplicate receipt for the funds, one to be filed with the county auditor, one with the probate court, and one with the department. If the funds remain in the county treasury unclaimed for a period of four years and ninety days, the treasurer is required to remit them to the department for deposit in the permanent common school fund.

(d) **Claims made after the time limitation.** After any time limitation prescribed in RCW 11.76.220, 11.76.240 or 11.76.243 the absentee claimant may notify the department of his or her claim and file in the court which had jurisdiction of the original probate a petition claiming the assets of the estate. Upon proof being made to the court and the determination that the claimant is entitled to the property the assets shall be paid to the claimant without interest.

[Statutory Authority: RCW 83.100.047 and 83.100.200. 06-07-051, § 458-57-165, filed 3/9/06, effective 4/9/06.]

Chapter 458-61A WAC REAL ESTATE EXCISE TAX

WAC

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458-61A-203	Community property, dissolution of marriage, legal separation, decree of invalidity.
458-61A-204	Tenants in common and joint tenants.
458-61A-205	Government transfers.
458-61A-206	Condemnation proceedings.
458-61A-207	Bankruptcy.
458-61A-208	Foreclosure—Deeds in lieu of foreclosure—Sales pursuant to court order.
458-61A-209	Rescission of sale.

458-61A-210	Irrevocable trusts.
458-61A-211	Mere change in identity or form—Family corporations and partnerships.
458-61A-212	Transfers where gain is not recognized under the Internal Revenue Code.
458-61A-213	IRS "tax deferred" exchange.
458-61A-214	Nominee.
458-61A-215	Clearing or exiting title, and additions to title.
458-61A-216	Mortgage insurers.
458-61A-217	Rerecord.

COLLECTION AND ADMINISTRATION

458-61A-300	Collection and administration.
458-61A-301	Payment of tax, collection responsibility, audit responsibility, and tax rulings.
458-61A-302	Disposition of proceeds and affidavit batch transmittal.
458-61A-303	Affidavit.
458-61A-304	Supplemental statements.
458-61A-305	Trade-in credit.
458-61A-306	Date of sale, interest, and penalties.

GENERAL INFORMATION AND TAXABILITY OF TRANSFERS

WAC 458-61A-100 Real estate excise tax—Overview. (1) **Introduction.** Chapter 82.45 RCW imposes an excise tax on every sale of real estate in the state of Washington. All sales of real property in this state are subject to the real estate excise tax unless specifically exempted by chapter 82.45 RCW and these rules. The general provisions for the administration of the state's excise taxes contained in chapter 82.32 RCW apply to the real estate excise tax, except as provided in RCW 82.45.150. This chapter provides applicable definitions, describes procedures for payment, collection, and reporting of the tax, explains when penalties and interest are imposed on late payment, describes those transactions exempted from imposition of the tax, and explains the procedures for refunds and appeals.

(2) Imposition of tax.

(a) The taxes imposed are due at the time the sale occurs, are the obligation of the seller, and, in most instances, are collected by the county upon presentation of the documents of sale for recording in the public records.

(b) If there is a sale of the controlling interest in an entity that owns real property in this state, the tax is paid to the department at the time the interest is transferred. See WAC 458-61A-101.

(3) **Rate of tax.** The rate of the tax is set forth in RCW 82.45.060. Counties, cities, and towns may impose additional taxes on sales of real property on the same incidences, collection, and reporting methods authorized under chapter 82.45 RCW. See chapter 82.46 RCW.

(4) **Nonprofit organizations.** Transfers to or from an organization exempt from ad valorem property taxes under chapter 84.36 RCW, or from federal income tax, because of the organization's nonprofit or charitable status are nevertheless subject to the real estate excise tax unless specifically exempt under chapter 82.45 RCW or these rules.

(5) **Sales in Indian country.** A sale of real property located in Indian country by an enrolled tribe or tribal member is not subject to real estate excise tax. See WAC 458-20-192 for complete information regarding the taxability of transactions involving Indians and Indian country.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-100, filed 11/16/05, effective 12/17/05.]

(2007 Ed.)

WAC 458-61A-101 Taxability of the transfer or acquisition of the controlling interest of an entity with an interest in real property located in this state. (1) **Introduction.** The transfer of a controlling interest in an entity that has an interest in real property in this state is considered a taxable sale of the entity's real property for purposes of the real estate excise tax under chapter 82.45 RCW. This rule explains the application of the tax on those transfers.

(2) **Definitions.** For the purposes of this chapter, the following definitions apply unless the context requires otherwise.

(a) "Controlling interest" means:

(i) In the case of a corporation, either fifty percent or more of the total combined voting power of all classes of stock of the corporation entitled to vote, or fifty percent of the capital, profits, or beneficial interest in the voting stock of the corporation; and

(ii) In the case of a partnership, association, trust, or other entity, fifty percent or more of the capital, profits, or beneficial interest in such partnership, association, trust, or other entity.

Examples. The following examples, while not exhaustive, illustrate some of the circumstances in which the transfer of an interest in an entity may or may not be taxable. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(A) Able and Baker each own 40% of the voting shares of a corporation, Flyaway, Inc. Charlie, Delta, Echo, and Frank each own 5% voting shares. Charlie acquires Baker's 40% interest, and Delta's and Echo's 5% interests. This is a taxable acquisition because a controlling interest (50% or more) was acquired by Charlie (40% from Baker plus 5% from Delta and 5% from Echo). However, if Charlie, Delta, and Echo were to transfer their shares (totaling 15%) to Able, those transfers would not be taxable. Although Able would own 55% of the corporation, only a 15% interest was transferred and acquired, so the acquisition by Able is not taxable.

(B) Melody LLC consists of a general partner and three limited partners, each possessing a 25% interest. Even though the general partner controls the management and daily operations, a 25% interest is not a controlling interest. If someone were to acquire a 50% or greater interest from any of the existing partners, there would be a taxable acquisition of a controlling interest. If one partner acquires an additional 25% interest from another partner for a total of a 50% interest, no transfer or acquisition of a controlling interest occurs because less than 50% is transferred and acquired.

(C) Anne, Bobby, Chelsea, and David each own 25% of the voting shares of a corporation. The corporation redeems the shares of Bobby, Chelsea, and David. Anne now owns all the outstanding shares of the corporation. A taxable transfer occurred when the corporation redeemed the shares of Bobby, Chelsea, and David.

(D) Andrew owns 75% of the voting shares of a corporation. Andrew transfers all of his stock by 25% portions of the shares in three separate and unrelated transactions to Betsy, Carolyn, and Daniel, who are not acting in concert. A taxable transfer of a controlling interest occurs when Andrew transfers 75% of the voting shares of the corporation, even though no one has subsequently acquired a controlling interest.

(E) Big Corporation has two stockholders, Adrian and Britain. Adrian owns 90 shares of stock (90%) and Britain owns 10 shares of stock (10%). Big Corporation owns 60% of the stock of Little Corporation, which owns real property. Adrian, by virtue of owning 90% of Big Corporation's stock, has a 54% interest in Little Corporation (90% interest in Big multiplied by the 60% interest Big has in Little equals the 54% interest Adrian has in Little). Adrian sells his 90 shares of stock in Big to Britain. Adrian, by selling his 90 shares of Big stock, has transferred a controlling interest (54%) in an entity that owns real property (Little). This transfer is subject to the real estate excise tax.

(F) Assume the same facts as in Example (E) of this subsection, except that Big owns only 50% of Little's stock. Since Adrian has not transferred and Britain has not acquired a controlling interest in Little ($90\% \times 50\% = 45\%$), the real estate excise tax does not apply. If, however, Big had transferred its 50% interest in Little, that would be a transfer of a controlling interest and it would be subject to the real estate excise tax.

(b) The terms **"person"** or **"company"** mean any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, the state of Washington or any political subdivision thereof, corporation, limited liability company association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, and the United States or any agency or instrumentality thereof.

(c) **"True and fair value"** means market value, which is the amount of money that a willing, but unobliged, buyer would pay a willing, but unobligated, owner for real property, taking into consideration all reasonable, possible uses of the property.

(d) **"Twelve-month period"** is any period of twelve consecutive months and may span two calendar years.

(e) **"Acting in concert"** occurs:

(i) When one or more persons have a relationship with each other such that one person influences or controls the actions of another through common ownership. For example, if a parent corporation and a wholly owned subsidiary each purchase a 25% interest in an entity, the two corporations have acted in concert and acquired a controlling (i.e., at least 50%) interest in the entity.

(ii) Where buyers are not commonly controlled or owned, but the unity of purpose with which they have negotiated and will complete the acquisition of ownership interests, indicates that they are acting together. For example, three separate individuals who decide together to acquire control of a company jointly through separate purchases of 20% interests in the company act in concert when they acquire the interests.

(3) **In general.** In order for the tax to apply when the controlling interest in an entity that owns real property is transferred, the following must have occurred:

(a) The transfer or acquisition of the controlling interest occurred within a twelve-month period;

(b) The controlling interest was transferred in a single transaction or series of transactions by a single person or

acquired by a single person or a group of persons acting in concert;

(c) The entity has an interest in real property located in this state;

(d) The transfer is not otherwise exempt under chapters 82.45 RCW and 458-61A WAC; and

(e) The transfer was made for valuable consideration.

(4) **Measure of the tax.** The measure of the tax is the "selling price." For the purpose of this rule, "selling price" means the true and fair value of the real property owned by the entity at the time the controlling interest is transferred.

(a) If the true and fair value of the property cannot reasonably be determined, one of the following methods may be used to determine the true and fair value:

(i) A fair market value appraisal of the property; or

(ii) An allocation of assets by the seller and the buyer made pursuant to section 1060 of the Internal Revenue Code of 1986, as amended or renumbered as of January 1, 2005.

(b) If the true and fair value of the property to be valued at the time of the sale cannot reasonably be determined by either of the methods in (a) of this subsection, the market value assessment for the property maintained on the county property tax rolls at the time of the sale will be used as the selling price.

(c) **Examples.**

(i) A partnership owns real property and consists of two partners, Amy and Beth. Each has a 50% partnership interest. The true and fair value of the real property owned by the partnership is \$100,000. Amy transfers her 50% interest in the partnership to Beth for valuable consideration. The taxable selling price is the true and fair value of the real property owned by the partnership, or \$100,000.

(ii) A corporation consists of two shareholders, Chris and Dilbert. The assets of the corporation include real property, tangible personal property, and other intangible assets (goodwill, cash, licenses, etc.). An appraisal of the corporation's assets determines that the values of the assets are as follows: \$250,000 for real property; \$130,000 for tangible personal property; and \$55,000 for miscellaneous intangible assets. Chris transfers his 50% interest to Ellie for valuable consideration. The taxable selling price is the true and fair value of the real property owned by the corporation, or \$250,000.

(iii) An LLC owns real property and consists of two members, Frances and George. Each has a 50% LLC interest. Frances transfers her 50% interest to George. In exchange for the transfer, George pays Frances \$100,000. The true and fair value of the real property owned by the LLC is unknown. There is no debt on the real property. A fair market value appraisal is not available. The market value assessment for the property maintained on the county property tax rolls is \$275,000. The taxable selling price is the market value assessment, or \$275,000.

(5) **Persons acting in concert.** The tax applies to acquisitions made by persons acting in concert, as defined in subsection (2)(f) of this section.

(a) Where persons are not commonly controlled or influenced, factors that indicate whether persons are acting in concert include:

(i) A close relation in time of the transfers or acquisitions;

- (ii) A small number of purchasers;
- (iii) Mutual terms contained in the contracts of sale; and
- (iv) Additional agreements to the sales contract that bind the purchasers to a course of action with respect to the transfer or acquisition.

(b) If the acquisitions are completely independent, with each purchaser buying without regard to the identity of the other purchasers, then the persons are not acting in concert, and the acquisitions will be considered separate acquisitions.

(c) **Example.** Able owns 100% of Emerald Corporation, which owns real property. As a group, Baker, Charlie, Delta, and Echo negotiate to acquire all of Able's interest in Emerald. Baker, Charlie, Delta, and Echo each acquire 25% of Able's interest. The contracts of Baker, Charlie, Delta, and Echo are identical and the purchases occur simultaneously. Baker, Charlie, Delta, and Echo also negotiated an agreement binding themselves to a course of action with respect to the acquisition of Emerald and the terms of the shareholders agreement that will govern their relationship as owners of Emerald. Baker, Charlie, Delta, and Echo are acting in concert and their acquisitions from Able are treated as a single acquisition of a controlling interest that is subject to the real estate excise tax.

(6) Date of sale.

(a) When the controlling interest is acquired in one transaction, the actual date control is transferred is the date of sale. Examples of when an interest in an entity is transferred include when payment is received by the seller and the shares of stock are delivered to the buyer, or when payment is received by the seller and partnership documents are signed, etc. However, if the parties enter into an agreement to acquire or transfer a controlling interest over time through a series of transactions, the date of sale is deemed the date of the agreement arranging the transactions. The agreement results in the transfer of both a present interest and a beneficial interest in the entity, the sum of which results in a controlling interest, regardless of whether the first of the successive transactions is more than twelve months prior to the final transaction.

(b) Examples.

(i) Andrew owns 100% of the voting shares of Topaz Corporation. Andrew signs a binding agreement to transfer 51% of his shares in the corporation to Ted. The agreement states that the transfer will occur as follows: 49% of the shares will be transferred on January 1st, and the remaining 2% of the shares will be transferred on February 1st of the following year. Andrew has contractually agreed to sell 51% of the voting shares in Topaz within a twelve-month period, even though the shares will not actually be transferred to Ted until later. The date of sale is the date of the agreement, and REET is due upon the true and fair value of the property as of the date of the agreement.

(ii) Matt acquires a 10% interest in an entity which owns an apartment building under construction worth \$500,000 from Simon on January 30th. On July 30th Matt acquires a 30% interest in the same entity from Mary, but the building is now worth \$900,000. On September 30th Matt acquires a 10% interest in the same entity from Ruth, but the building is now worth \$1,000,000. These are three separate and completely independent transfers. The final transfer allowed Matt to acquire, within twelve months, a controlling interest in an

entity that owns real property. September 30th is the date of sale.

To determine the sellers' proportional tax liability in the example above, the series of transactions is viewed as a whole. Note both the individual and the total interests transferred. Here, Simon and Mary each conveyed 10% interests, while Ruth conveyed a 30% interest, with a total of a 50% interest being conveyed. To determine the liability percentage for each seller, divide the interest each conveyed by the total interest conveyed (Here, Simon and Mary: $10/50 = 20\%$; Ruth: $30/50 = 60\%$). This results in tax liability percentages here for Simon and Mary of 20% each and for Ruth, 60%.

To determine the amount of tax owed, the percentage is applied to the value of the property at the time of conveyance. In the example above, the value of the property to which the percentage applies is dependent on the time of each transfer (i.e., Simon's 20% on the \$500,000; Mary's 60% on the \$900,000; Ruth's 20% on the \$1,000,000).

(7) Tax liability. When there is a transfer or acquisition of a controlling interest in an entity that has an interest in real property, the seller of the interest is generally liable for the tax.

(a) When the seller has not paid the tax by the due date and neither the buyer nor the seller has notified the department of the sale within thirty days of the sale, the buyer is also liable for the tax.

(b) When the buyer has notified the department of the sale within thirty days of the sale, the buyer will not be held personally liable for any tax due.

(8) Reporting requirements. The transfer of a controlling interest in real property must be reported to the department when no instrument is recorded in the official real property records of the county in which the property is located. If the transfer is not taxable due to an exemption, that exemption should be stated on the affidavit.

(a) The sale must be reported by the seller to the department within five days from the date of the sale on the department of revenue affidavit form, DOR Form 84-0001B. The affidavit form must be signed by both the seller and the buyer, or their agent, and must be accompanied by payment of the tax due.

(b) The affidavit form may also be used to disclose the sale, in which case:

(i) It must be signed by the person making the disclosure; and

(ii) It must be accompanied by payment of the tax due only when submitted by a seller reporting a taxable sale.

(c) Any person who intentionally makes a false statement on any return or form required to be filed with the department under this chapter is subject to penalty of perjury.

(d) Examples. The following examples, while not exhaustive, illustrate some of the circumstances in which the transfer of an interest in an entity must be reported to the department. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(i) Simon and Peter each own 40% of the voting shares of a corporation. Paul, Matthew, Mark, and John each own 5% voting shares. Paul acquires Peter's 40% interest, and Matthew's and Mark's 5% interests. This is a taxable acquisi-

tion because a controlling interest (50% or more) was acquired by Paul (40% from Peter plus 5% from Matthew and 5% from Mark). This transaction must be reported.

(ii) Assume same facts as in example (d)(i) of this subsection. Paul's attorney advises him that for his protection, Paul should file an affidavit to disclose the sale. Paul files an affidavit to disclose the sale to the department within thirty days of the date of sale. Peter, Matthew, and Mark go on vacation and the affidavit and required tax payment is not sent to the department. The department notifies Peter, Matthew, and Mark of their tax liability, which now includes interest and penalties. Due to Paul's disclosure, Paul is relieved of any personal liability for the tax, interest, or penalties.

(iii) Assume the same facts as in example (d)(i) of this subsection, except Paul only acquires Peter's 40% interest and Matthew's 5% interest. This is not a taxable acquisition because a controlling interest (50% or more) was not acquired by Paul. This transaction does not need to be reported.

(9) **Due date, interest and penalties.** The tax imposed is due and payable immediately on the date of sale. See WAC 458-61A-306 for interest and penalties that may apply.

(10) **Transfers after tax has been paid.** When there is a transfer or acquisition of a controlling interest in an entity and the real estate excise tax is paid on the transfer, and there is a subsequent acquisition of an additional interest in the same entity within the same twelve-month period by a person acting in concert with the previous buyer(s), the subsequent seller is liable for its proportional portion of the tax. After payment by the subsequent seller of its proportional share, the person(s) who previously paid the tax may apply to the department for a refund of the amount overpaid because of the new proportional amount paid as a result of the subsequent transfer or acquisition.

(11) **Exemptions.** Because transfer and acquisition of a controlling interest in an entity that owns real estate in this state is statutorily defined as a "sale" of the real property owned by the entity, the exemptions of chapter 82.45 RCW and this chapter also apply to the sale of a controlling interest.

Examples.

(a) The merger of a wholly owned subsidiary owning real property located in this state with another subsidiary wholly owned by the same parent is a transfer of a controlling interest. However, this transfer may be exempt from taxation on two grounds. First, it may be exempt because it is a mere change in form or identity (see WAC 458-61A-211). Second, it may be exempt if it qualifies under the nonrecognition of gain or loss provisions of the Internal Revenue Code for entity formation, liquidation and dissolution, and reorganization. (See WAC 458-61A-212.)

(b) Taki owns 100% of a corporation. Taki wants her child, Miekko, and corporate manager, Sage, to be co-owners with her in the corporation. Taki makes a gift of 50% of the voting stock to Miekko and sells 33 1/3% to Sage. Although a controlling interest in the corporation has been transferred to and acquired by Miekko, it is not taxed because a gift is an exempt transfer and not considered for purposes of determining whether a controlling interest has transferred. The sale of the 33 1/3% interest to Sage is not a controlling interest, and is not taxed.

(c) Richard owns 75% of the voting stock of a corporation that owns real estate located in this state. Richard pledges all of his corporate stock to secure a loan with a bank. When Richard defaults on the loan and the bank forecloses on Richard's stock in the corporation, the transfer and acquisition of the controlling interest of the entity is not a taxable transaction because foreclosures of mortgages and other security devices are exempt transfers. (See WAC 458-61A-208.)

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-101, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-102 Definitions. For the purposes of chapter 458-61A WAC, the following definitions apply unless the context requires otherwise:

(1) **"Affidavit"** means the real estate excise tax affidavit provided by the department for use by taxpayers in reporting transfers of real property. Both the seller/grantor and the buyer/grantee, or their agents, sign the affidavit under penalty of perjury. The term also includes the form used to report to the department transfers and acquisitions of a controlling interest in an entity owning real property in this state under WAC 458-61A-101.

(2) **"Consideration"** means money or anything of value, either tangible or intangible, paid or delivered, or contracted to be paid or delivered, including performance of services, in return for the transfer of real property. The term includes the amount of any lien, mortgage, contract indebtedness, or other encumbrance, given to secure the purchase price, or any part thereof, or remaining unpaid on the property at the time of sale. For example, Lee purchases a home for \$250,000. He puts down \$50,000, and finances the balance of \$200,000. The full consideration paid for the house is \$250,000.

(a) "Consideration" includes the issue of an ownership interest in any entity in exchange for a transfer of real property to the entity. For example, if Julie transfers title to 20 acres of commercial property to Smith Development, LLC in exchange for a 50% ownership interest in the company, that constitutes consideration for the transfer. In the case of partnerships, consideration includes the increase in the capital account of the partner made as a result of the partner's transfer of real property to the partnership, unless the transfer is otherwise specifically exempt under WAC 458-61A-211 or 458-61A-212.

(b) "Consideration" includes the assumption of an underlying debt on the property by the buyer at the time of transfer. For example, Ben buys a residence, valued at \$300,000, from Liza. Liza was purchasing the property on a real estate contract that has an outstanding balance of \$175,000. Ben gives Liza \$125,000 in cash and he assumes the obligation on the real estate contract, which Liza assigns to him. Real estate excise tax is due on \$300,000, which is the total consideration for the sale.

(c) "Consideration" does not include the amount of any outstanding lien or encumbrance in favor of the United States, the state, or a municipal corporation for taxes, special benefits, or improvements. For example, Mel buys residential property for \$300,000. The title is encumbered by a lien for unpaid property taxes in the amount of \$12,000, and a lien for municipal sidewalk improvements in the amount of \$6,000.

Although Mel will become liable for those liens in order to take title to the property, they are not considered part of the purchase price for the purpose of calculating real estate excise tax. The real estate excise tax is due only on the purchase price of \$300,000.

(3) **"Controlling interest"** means:

(a) In the case of a corporation, either fifty percent or more of the total combined voting power of all classes of stock of the corporation entitled to vote, or fifty percent of the capital, profits, or beneficial interest in the voting stock of the corporation; and

(b) In the case of a partnership, association, trust, or other entity, fifty percent or more of the capital, profits, or beneficial interest in the partnership, association, trust, or other entity.

(4) **"County"** means the county treasurer or its agent.

(5) **"Date of sale"** means the date (normally shown on the instrument of conveyance or sale) that ownership of or title to real property, or control of the controlling interest in an entity that has a beneficial interest in real property, is delivered to the buyer/transferee in exchange for valuable consideration. In the case of a lease with option to purchase, the date of sale is the date when the purchase option is exercised and the property is transferred. "Date of sale," "date of transfer," "conveyance date," and "transaction date" all have the same meaning and may be used interchangeably in this chapter. The real estate excise tax is due on the date of sale.

(6) **"Department"** means the department of revenue.

(7) **"Floating home"** means a building on a float used in whole or in part for human habitation as a single-family dwelling, which is not designed for self-propulsion by mechanical means or for propulsion by means of wind, and which is on the property tax rolls of the county in which it is located.

(8) **"Governmental entity"** means the United States, any agency or instrumentality of the United States, the state of Washington ("state"), any government agency, commission, college, university, or other department of the state, any political subdivision of the state, counties, any county agency, council, instrumentality, commission, office, or department, any Washington taxing district, municipal corporations of this state, and any office, council, department, or instrumentality of a Washington municipal corporation.

(9) **"Mining property"** is property containing or believed to contain metallic or nonmetallic minerals, and sold or leased under terms that require the buyer or lessee to conduct exploration or mining work thereon, and for no other purpose.

(10) **"Mobile home"** means a mobile home as defined by RCW 46.04.302.

(11) **"Mortgage"** has its ordinary meaning, and includes a "deed of trust" for the purposes of this chapter, unless the context clearly indicates otherwise. The term "underlying debt" may also be used to refer to a mortgage or other security interest.

(12) **"Park model trailer"** means a park model trailer as defined in RCW 46.04.622.

(13) **"Real estate"** or **"real property"** means any interest, estate, or beneficial interest in land or anything affixed to land, including the ownership interest or beneficial interest in any entity that owns land, or anything affixed to land, includ-

ing standing timber and crops. The term includes condominiums and individual apartments for which the buyer receives a warranty deed. The term includes used mobile homes, used park model trailers, used floating homes, and improvements constructed upon leased land. The term also includes any part of an irrigation system that is underground or affixed to the land. The term does not include irrigation equipment that is above the ground or that is not affixed to land. See RCW 82.12.020 for the tax treatment of sales of irrigation equipment that is not included in the definition of "real estate."

(14) **"Real estate contract"** or **"contract"** means any written agreement for the sale of real property in which legal title to the property is retained by the seller as security for the payment of the purchase price. The term does not include earnest money agreements or options to purchase real property.

(15) **"Sale"** means:

(a) Any conveyance, grant, assignment, quitclaim, or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration, and any contract for such a conveyance, grant, assignment, quitclaim, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person at the purchaser's direction, and title to the property is retained by the vendor as security for the payment of the purchase price. The term includes the grant, relinquishment, or assignment of a life estate in property. The term also includes the grant, assignment, quitclaim, sale, or transfer of improvements constructed upon leased land.

(b) The term "sale" also includes the transfer or acquisition within any twelve-month period of a controlling interest in any entity with an interest in real property located in this state for a valuable consideration. For the purposes of this chapter, all acquisitions of persons acting in concert are aggregated for the purpose of determining whether a transfer or acquisition of a controlling interest has taken place.

(c) The term "sale" also applies to successive sales of the same property. An owner of real property is subject to payment of the real estate excise tax upon the entry of each successive contract for the sale of the same parcel of property. For example, Bob owns a house that he sells to Sam on a real estate contract. Real estate excise tax is paid on the transfer from Bob to Sam. Sam makes several payments, until he becomes unemployed. Since Sam can no longer make payments on the property, he conveys it back to Bob. Bob then makes a subsequent sale of the house to Sally. Real estate excise tax is due on the transfer from Bob to Sally. See WAC 458-61A-209 for the tax implications on the conveyance from Sam back to Bob.

(d) The term "sale" does not include:

(i) Those real property transfers that are excluded from the definition of "sale" and exempted from the real estate excise tax under RCW 82.45.010(3) and this chapter, including transfers without valuable consideration.

(ii) The transfer of lots or graves in an established cemetery. An established cemetery is one that meets the requirements for ad valorem property tax exemption under chapter 84.36 RCW.

(iii) The transfer of an interest in real property merely to secure a debt or the assignment of a security interest, release

of a security interest, satisfaction of a mortgage, or reconveyance under the terms of a mortgage or deed of trust.

(iv) A deed given to a purchaser under a real estate contract upon fulfillment of the terms of the contract provided that the proper tax was paid on the original transaction. The fulfillment deed must be stamped by the county treasurer as required by WAC 458-61A-301, and the stamp must show the affidavit number of the sale for which the deed is fulfilling.

(e) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a transfer may or may not be taxable. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(i) John paid off his home mortgage and wants to get a loan to make improvements and buy a new car. John obtains an equity loan, secured by his home as collateral. This transaction is not subject to the real estate excise tax.

(ii) Bob purchased real property from Sam pursuant to a real estate contract. Real estate excise tax was paid on the purchase price at the time of the sale. Bob has now paid off the property, and Sam is issuing a fulfillment deed to Bob indicating that the real estate contract has been satisfied. The fulfillment deed from Sam to Bob is not subject to the real estate excise tax.

(iii) Diane has made the final payment on her mortgage, and the bank issues a full reconveyance of her property, indicating that the mortgage is paid in full. The reconveyance is not subject to the real estate excise tax.

(iv) Bill is refinancing his mortgage for a lower interest rate. There is a balloon payment on the new loan that will require that he refinance again in five years. Neither transaction is subject to the real estate excise tax.

(16) **"Seller"** means any individual, receiver, assignee, trustee for a deed of trust, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, joint stock company, limited liability company, business trust, municipal corporation, quasi municipal corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise, but it does not include the United States or the state of Washington. The term "grantor" is used interchangeably with the term "seller" in this chapter and has the same meaning for purposes of the real estate excise tax.

(17) **"Selling price"** means the true and fair value of the property conveyed. There is a rebuttable presumption that the true and fair value is equal to the total consideration paid or contracted to be paid to the seller or to another person for the seller's benefit.

(a) When the price paid does not accurately reflect the true and fair value of the property, one of the following methods may be used to determine the true and fair value:

(i) A fair market appraisal of the property; or

(ii) An allocation of assets by the seller and the buyer made under section 1060 of the Internal Revenue Code of 1986, as amended.

(b) When the true and fair value of the property at the time of sale cannot reasonably be determined by either of the methods in (a) of this subsection, the market value assessment for the property maintained in the county property tax

rolls at the time of sale will be used as the selling price. RCW 82.45.030.

(c) When the sale is of a partial interest in real property, the principal balance of any debt remaining unpaid at the time of sale will be multiplied by the percentage of ownership transferred, and that amount added to any other consideration to determine the selling price.

(d) In the case of a lease with option to purchase, the selling price is the true and fair value of the property conveyed at the time the option is exercised.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-102, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-103 Transfers involving an underlying debt. (1) Introduction. The real estate excise tax applies to transfers of real property when the grantee relieves the grantor from an underlying debt on the property or makes payments on the grantor's debt. The measure of the tax is the combined amount of the underlying debt on the property and any other consideration.

For example, Yen transfers property to Lee that is subject to an underlying debt. Yen is personally liable for the debt, meaning that if Yen does not make the payments the lender may foreclose on the property and obtain a judgment against Yen if the value of the property is insufficient to pay the debt. Lee agrees to make all future payments on Yen's debt but gives no other consideration for the property. Yen owes real estate excise tax on the amount of the underlying debt. Lee's payments on the underlying debt relieve Yen of her debt obligation. Therefore, Yen receives consideration.

(2) Transfers where grantor has no personal liability for the underlying debt. Real estate excise tax does not apply to transfers of real property subject to an underlying debt when the grantor has no personal liability for the debt and receives no other consideration for the transfer.

For example, Yen purchases property with funds obtained from PSP Corporation and secured only by the property. Yen has no personal liability for this debt. If Yen fails to make payments on the debt, PSP may foreclose on the property but it may not obtain a judgment against Yen. Yen transfers the property to Lee subject to the underlying debt. Lee takes the property subject to the underlying debt, and does not give any other consideration for the property. If Lee fails to make payments, PSP may foreclose on the property but it may not obtain a judgment against Lee (who, like Yen before, has no personal liability for the debt). Because Yen is not personally liable for the debt, Lee's payments on the underlying debt to PSP do not relieve Yen of any liability for the debt. The real estate excise tax does not apply to this transfer because there is no consideration.

(3) Documentation. In order to avoid the incidence of the tax, the grantor must present and maintain proper documentation to verify the type of debt and to confirm that fact that the grantor is not personally liable for the debt.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-103, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-104 Assignments. (1) Purchasers.

(a) The real estate excise tax does not apply to an assignment of a purchaser's interest in an earnest money agreement if neither the earnest money agreement nor its assignment

results in a change of title to or ownership of the real property.

(b) The real estate excise tax does apply to transfers when the purchaser of real property under a real estate contract assigns the purchaser's interest in the contract for consideration. The tax is based on all consideration paid or contracted to be paid to the grantor for the assignment, including any unpaid principal balance due on the assigned real estate contract.

(2) **Sellers.** The real estate excise tax does not apply when a seller of real property under a real estate contract assigns any interest in the contract to a third party.

(3) **Documentation.** The real estate excise tax affidavit is not required for exempt assignments; however, the instrument of assignment must be stamped by the county treasurer as required by WAC 458-61A-301. The stamp will cross-reference the number of the affidavit relating to the contract being assigned.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-104, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-105 Mobile and floating home sales.

(1) **Mobile homes.** The transfer of a mobile home is subject to either real estate excise tax or sales/use tax, depending on the characteristics of the transfer, regardless of whether the mobile home is classified as real or personal property on the assessment rolls.

(2) **Application of real estate excise tax.** The real estate excise tax applies to the transfer of a mobile home that:

(a) Is affixed to land by a foundation (post or blocks) and has connections for utilities;

(b) Is not required to be removed from the land as a condition of sale; and

(c) Has been subject to retail sales or use tax during a previous sale.

(3) **Sales or use tax.** Mobile home sales are subject to retail sales or use tax in the following instances:

(a) The initial retail sale of the mobile home;

(b) The sale from a dealer's lot of either a new or used mobile home;

(c) If the removal of the mobile from the land is a condition of the sale; or

(d) The mobile home is not affixed to the land by a foundation and does not have connections for utilities.

(4) **Floating homes.** The real estate excise tax applies to the transfer of a floating home that is:

(a) Constructed on a float used in whole or in part for human habitation as a single-family dwelling;

(b) Not designed for self-propulsion by mechanical means or for propulsion by means of wind; and

(c) Listed on the real property tax rolls of the county in which it is located and in respect to which tax has been paid under chapter 82.08 or 82.12 RCW.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-105, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-106 Sales of improvements to land, leases, and leases with option. (1) Introduction.

(a) The sale of improvements constructed on real property is subject to the real estate excise tax if the contract of

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sale does not require that the improvements be removed at the time of sale.

(b) The transfer of a lessee's interest in a leasehold for valuable consideration is taxable to the extent the transfer includes any improvement constructed on leased land. If the selling price of an improvement is not separately stated, or cannot otherwise be reasonably determined, the assessed value of the improvement as entered on the assessment rolls of the county assessor will be used.

(2) **Lease with option to purchase.** The real estate excise tax applies to a lease with option to purchase at the time the purchase option is exercised and the property is transferred. The measure of the tax is the true and fair value of the property conveyed at the time the option is exercised.

(3) **Improvements removed from land.** The real estate excise tax does not apply to the sale of improvements if the terms of the sales contract require that the improvements be removed from the land. In this case the improvements are considered personal property and their use by the purchaser is subject to the use tax under chapter 82.12 RCW.

(4) **Documentation.** Completion of the affidavit is required for all of the above transfers except a transfer described in subsection (3) of this section, in which case the purchaser must file a use tax return with the department.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-106, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-107 Option to purchase. (1) Introduction. The real estate excise tax applies to a conveyance of real property upon the exercise of an option to purchase.

(2) **Taxability of sales of options.** The real estate excise tax does not apply to the grant or sale of an option and the real estate excise tax affidavit is not required for that transaction. However, the sale of an option is subject to business and occupation tax under the service and other category and should be reported on the combined excise tax return. RCW 82.04.290.

(3) Examples.

(a) Joe acquires an option at a cost of \$100,000. The option, if exercised, allows Joe to purchase ten parcels of land for \$700,000. As individual parcels, these lots of land are uneconomically to develop. Joe "packages" the land, making it economically feasible to develop by either obtaining sufficient acreage or required studies. Buildup, a real estate development and construction company, purchases Joe's option on the property for \$2.3 million and subsequently exercises the option, paying \$700,000 for the land. The real estate excise tax does not apply to the sale of the option, however the \$2.3 million received for the option is subject to the business and occupation tax under the service and other category. The measure of the real estate excise tax is the \$700,000 purchase price paid on the transfer of the land.

(b) Consider the same initial facts as in the example in (a) of this subsection, but instead, Joe exercises the option, and subsequently sells the land to Buildup. The real estate excise tax applies to both the transfer to Joe and the subsequent transfer from Joe to Buildup.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-107, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-108 Contractor. (1) **In general.** If land is deeded to a contractor with an agreement to reconvey the property after construction of an improvement, the real estate excise tax does not apply to either the first conveyance or to the reconveyance if:

(a) The land is deeded for the sole purpose of enabling the contractor to obtain financing for the construction of the improvement on the property conveyed; and

(b) The agreement to reconvey is contained in a written statement made prior to the original conveyance.

(2) **Tax treatment.** When both of the requirements of subsection (1) of this section have been met, the deed to the contractor, although absolute on its face, will be treated as creating a security interest only. However, the sales price of the improvement is subject to retail sales tax under chapter 82.08 RCW and business and occupation tax under chapter 82.04 RCW.

(3) **Documentation.** Real estate excise tax affidavits are required for both the original conveyance and the reconveyance. The affidavit must contain wording to the effect that the purpose of the transfers is for construction and security purposes only. The affidavit for reconveyance must refer to the date and number of the original affidavit.

(4) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples are provided as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) Jill owns an unimproved lot. She contracts with Sapphire Construction to build a residence on her lot. The contract provides that the lot will be deeded to Sapphire to obtain financing. The contract also states the property will be deeded back to Jill when the residence is completed. No real estate excise tax is due on the transfer of the vacant lot from Jill to Sapphire. Six months later, the residence is completed. Sapphire Construction transfers the property (land plus improvement) to Jill. No real estate excise tax is due on this transfer. The sales price of the improvement is subject to retail sales tax under chapter 82.08 RCW and business and occupation tax under chapter 82.04 RCW.

(b) Eleanor owns a house on 20 acres. She contracts with Ruby Development to sell 19 of her acres, but keeps ownership of her house and one acre that it sits on. The price is \$20,000 per acre. Since the property is not subdivided, she must convey all of her property to Ruby Development, under the condition that the house and the one acre will be deeded back to her when the property is subdivided. Eleanor transfers the 20-acre parcel to Ruby Development. Real estate excise tax is due on the \$380,000 contract price (19 acres x \$20,000 per acre). After one year, Ruby Development has the property subdivided into 20 one-acre parcels. Ruby Development transfers to Eleanor the house and one acre per the original contract. No real estate excise tax is due on the transfer from Ruby Development to Eleanor.

(c) Next to Eleanor, Bob owns 25 acres. He contracts with Ruby Development to sell his 25 acres for \$400,000, with the agreement that two lots will be transferred back to him after the development is completed. Real estate excise tax is due on the \$400,000 contract price. The reconveyance of two lots back to Bob is not subject to real estate excise tax.

(5) If a contractor, acting under the terms of a contract, purchases land on behalf of a customer for the purposes of constructing an improvement, the later conveyance of the property to the customer is not subject to the real estate excise tax provided the requirements of WAC 458-61A-214 (Nominee) are met. The sales price of the improvement is subject to retail sales tax under chapter 82.08 RCW and business and occupation tax under chapter 82.04 RCW.

(6) When the owner of a lot contracts to have an improvement built upon the lot and retains title to the land, or when a lessee contracts to have an improvement built upon the lot and retains the leasehold interest, the real estate excise tax does not apply to the purchase of the improvement. The sales price of the improvement is subject to retail sales tax under chapter 82.08 RCW and business and occupation tax under chapter 82.04 RCW.

(7) When a speculative builder owns a lot and builds an improvement upon it, the subsequent sale of land and improvement is subject to the real estate excise tax. When a speculative builder sells a parcel of property with a partially constructed improvement with the understanding that the builder will complete the improvement, the real estate excise tax applies to the percentage of the project complete at the time of transfer. The retail sales tax applies to that portion of the selling price representing the construction to be completed after transfer.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-108, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-109 Trading/exchanging property and boundary line adjustments. (1) **Trading/exchanging property.** The real estate excise tax applies when real property is conveyed in exchange for other real property or any other valuable property. The real estate excise tax is due on the true and fair value for each individual property.

(2) **Boundary line adjustments.**

(a) **Introduction.** A boundary line adjustment is a legal method to make minor changes to existing property lines between two or more contiguous parcels. Real estate excise tax may apply depending upon the specific circumstances of the transaction. Boundary line adjustments include, but are not limited to, the following:

(i) Moving a property line to follow an existing fence line;

(ii) Moving a property line around a structure to meet required setbacks;

(iii) Moving a property line to remedy a boundary line dispute;

(iv) Moving a property line to adjust property size and/or shape for owner convenience; and

(v) Selling a small section of property to an adjacent property owner.

(b) **Boundary line adjustments in settlement of dispute.** Boundary line adjustments made solely to settle a boundary line dispute are not subject to real estate excise tax if no other consideration is present.

(c) **Taxable boundary line adjustments.** In all cases, real estate excise tax applies to boundary line adjustments if there is consideration (other than resolution of the dispute), such as in the case of a sale or trade of property.

(3) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples are provided as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) Mr. Jehnsen and Mr. Smith own adjoining parcels of land separated by a fence. During a survey to confirm the property boundary of Mr. Smith's parcel, the parties discover that the true property line actually extends five feet over on Mr. Jehnsen's side of the fence. Mr. Jehnsen does not want to move the fence. He has paved, landscaped and maintained this section of land and if he gave it up he would lose his parking area. After numerous discussions regarding the property line, Mr. Smith agrees to quitclaim the five-foot section of land to Mr. Jehnsen. Real estate excise tax does not apply since there is no consideration other than resolution of the dispute.

(b) Mr. Smith will only agree to transfer the five-foot section of land to Mr. Jehnsen if he is paid \$1,000. Mr. Smith owes real estate excise tax on \$1,000.

(c) Mr. Smith will cede the five-foot parcel only if Mr. Jehnsen gives him a narrow strip of land in exchange. Mr. Jehnsen agrees to exchange a ten-foot section of his parcel for the five-foot section of Mr. Smith's parcel solely to resolve the boundary line dispute. Real estate excise tax does not apply. It is irrelevant that the property involved in the transfer is not equal since the sole purpose of the transfer is to settle a boundary line dispute.

(d) Mr. Smith and Mr. Jehnsen are unable to resolve their dispute over the five-foot parcel. Mr. Jehnsen agrees to trade his lake front cabin for Mr. Smith's entire parcel. Mr. Jehnsen will owe real estate excise tax on the fair market value of the lake front cabin. Mr. Smith owes real estate excise tax on the fair market value of his parcel.

(e) Mr. Smith wants something in exchange for giving the five-foot parcel to Mr. Jehnsen. Mr. Jehnsen agrees to give Mr. Smith his tractor in exchange for the five-foot section of land. Mr. Smith will owe real estate excise tax on the fair market value of the five-foot section of his parcel and use tax on the value of the tractor (see WAC 458-20-178).

(f) Mr. Robbins owns 18 acres of land adjacent to Ms. Pemberton's 22-acre parcel. Mr. Robbins would like to develop his 18 acres, but he needs two more acres to develop the land. Ms. Pemberton agrees to give Mr. Robbins two acres of land. In exchange Mr. Robbins agrees to pave Ms. Pemberton's driveway as part of the land development. The real estate excise tax is due on the true and fair value of the two acres conveyed to Mr. Robbins. In addition, sales or use tax may be due on the value of the paving.

(4) **Documentation.** In all cases, an affidavit is required to record the new property line.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-109, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-110 Relocation service—Two-deed process. (1) **Introduction.** The real estate excise tax applies to property transfers involving the two-deed process or delivery of a deed, blank as to the grantee, but otherwise complete.

(2) **Delivery to third party.** The subsequent delivery of the deed to a third person named as grantee for consideration is also a taxable sale.

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(3) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples are provided as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) Bob lists his house with a realtor under an agreement that if the house does not sell within four months, the realtor will purchase the house from Bob at the agreed price. Bob intends to purchase a house listed with that realtor and needs the funds from the sale of his house to use as a payment for the new house. Bob's house does not sell within the four-month period so the realtor purchases Bob's house. Bob executes a blank deed and gives it to the realtor, authorizing the realtor to insert the grantee's name when the realtor eventually resells the house. Real estate excise tax is due on both transfers. Bob owes real estate excise tax on the selling price of the house at the time he transfers the house to the realtor. The realtor owes real estate excise tax on the selling price of the house upon sale to the final buyer.

(b) PSP Corporation contracts with a relocation company to handle the sale of homes for its employees that are relocating. The employee transfers the property to the relocation company. The relocation company delivers the deed to an escrow company who holds the deed until the relocation company finds a buyer. Real estate excise tax is due on both transfers. Tax is due when the employee transfers the deed to the relocation company. Real estate excise tax is due on the second transfer when the relocation company transfers the property to the buyer.

(4) **Transactions involving only a single deed.** In the event the transactions are accomplished by one deed, the county may require documentation confirming the date of sale of each transaction. The documentation may include a copy of the relocation contract, copy of the settlement statement(s), etc. Even though there is only one deed, two taxable transactions have occurred, and real estate excise tax is due on both.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-110, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-111 Easements, development rights, water rights, and air rights. (1) **Easements.** The real estate excise tax applies to the conveyance of an easement for the use of real property in return for valuable consideration. The real estate excise tax affidavit is required only if the transfer is taxable.

(2) **Development rights, water rights, and air rights.**

(a) The real estate excise tax applies to the sale of development rights, water rights, and air rights. The measure of the tax is the total consideration received in exchange for the transfer of the right. The real estate excise tax affidavit must be completed for the transfer of development rights, water rights, and air rights regardless of whether a taxable sale has occurred.

(b) **"Development rights"** means transferable rights to the unused development on a parcel of land measured by the difference between the existing development density on the parcel and the density allowed by applicable zoning laws.

(c) **"Water rights"** means transferable rights to the diversion, extraction or use of water arising by virtue of the ownership of land located contiguous to surface water, a

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water right claim, or the possession of a water right permit or certificate issued by the department of ecology.

(d) **"Air rights"** means the exclusive undisturbed use and control of a designated air space within the perimeter of a stated land area and within stated elevations.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-111, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-112 Mineral rights and mining claims. (1) **When tax is imposed.** A conditional sale of mining property in which the grantee has the right to terminate the contract at any time, and a lease and option to buy mining property in which the lessee/grantee has the right to terminate the lease and option at any time, is taxable at the time of execution on the amount of the consideration paid to the grantor/lessor for execution of the contract. The tax due on any additional consideration paid by the grantee and received by the grantor is paid to the county upon the first occurrence of the following events:

- (a) The time of termination;
- (b) The time that all of the consideration due to the grantor has been paid and the transaction is completed except for the delivery of the deed to the grantee; or
- (c) The time when the grantee unequivocally exercises an option to purchase the property.

(2) **Lease for royalty.** A mining lease that grants the lessee the right to conduct mining exploration upon or under the surface of real property and to remove minerals from the property in exchange for a royalty is not subject to the real estate excise tax when the lease does not transfer ownership of the minerals to the lessee prior to severance from the real property.

(3) **Patented claims.** Patented mining claims are real property and their sale is subject to the real estate excise tax.

(4) **Unpatented claims.** Unpatented mining claims are intangible personal property and therefore not subject to the real estate excise tax.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-112, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-113 Timber, standing. (1) The real estate excise tax applies to the sale of timber if the ownership of the timber is transferred while the timber is standing. The tax applies to the sale of standing timber whether the sale is accomplished by deed or by contract. See also chapters 84.33 RCW and 458-40 WAC for specific regulations and rules regarding the taxation of timber and forest land.

(2) The grantor's irrevocable agreement to sell timber and pass ownership to it as it is cut is a taxable transaction if the total amount of the sale is specified in the original contract.

(3) A contract to transfer the ownership of timber after it has been cut and removed from land by the grantee is not a taxable transaction.

(4) A contract between a timber owner and a harvester when the harvester provides the service of cutting the timber and transporting it to the mill is not subject to the real estate excise tax if the timber owner retains ownership of the timber until it is delivered to and purchased by the mill.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-113, filed 11/16/05, effective 12/17/05.]

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EXEMPTIONS AND EXCLUSIONS

WAC 458-61A-200 Exemptions and exclusions.

Introduction. There are limited exemptions or exclusions from the real estate excise tax provided by law. WAC 458-61A-201 through 458-61A-217 discuss exemptions and the procedures that must be followed to qualify for an exemption.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-200, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-201 Gifts. (1) **Introduction.** Generally, a gift of real property is not a sale, and is not subject to the real estate excise tax. A gift of real property is a transfer for which there is no consideration given in return for granting an interest in the property. If consideration is given in return for the interest granted, then the transfer is not a gift, but a sale, and it is subject to the real estate excise tax to the extent of the consideration received.

(2) **Consideration.** See WAC 458-61A-102 for the definition of "consideration." Consideration may also include:

- (a) Monetary payments from the grantee to the grantor; or
- (b) Monetary payments from the grantee toward underlying debt (such as a mortgage) on the property that was transferred, whether the payments are made toward existing or refinanced debt.

(3) **Assumption of debt.** If the grantee agrees to assume payment of the grantor's debt on the property in return for the transfer, there is consideration, and the transfer is not exempt from tax. Real estate excise tax is due on the amount of debt assumed, in addition to any other form of payment made by the grantee to the grantor in return for the transfer. However, equity in the property can be gifted.

(4) **Rebuttable presumption regarding refinancing transactions.**

(a) There is a rebuttable presumption that the transfer is a sale and not a gift if the grantee is involved in a refinance of debt on the property within six months of the time of the transfer.

(b) There is a rebuttable presumption that the transfer is a gift and not a sale if the grantee is involved in a refinance of debt on the property more than six months from the time of the transfer.

(5) **Documentation.**

(a) A completed real estate excise tax affidavit is required for transfers by gift. A supplemental statement approved by the department must be completed and attached to the affidavit. The supplemental statement will attest to the existence or absence of underlying debt on the property, whether the grantee has or will in the future make any payments on the debt, and whether a refinance of debt has occurred or is planned to occur. The statement must be signed by both the grantor and the grantee.

(b) The grantor must retain financial records providing proof that grantor is entitled to this exemption in case of audit by the department. Failure to provide records upon request will result in subsequent denial of the exemption.

(6) **Examples.**

(a) **Overview.** The following examples, while not exhaustive, illustrate some of the circumstances in which a grant of an interest in real property may qualify for this

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exemption. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(b) Examples—No debt.

(i) John conveys his residence valued at \$200,000 to Sara. John comes off of the title. There is no underlying debt on the property, and Sara gives John no consideration for the transfer. The conveyance from John to Sara qualifies for the gift exemption from real estate excise tax.

(ii) Keith and Jean, as joint owners, convey their residence valued at \$200,000 to Jean as her sole property. There is no underlying debt on the property. In exchange for Keith's one-half interest in the property, Jean gives Keith \$10,000. Keith has made a gift of \$90,000 in equity, and received consideration of \$10,000. Real estate excise tax is due on the \$10,000.

(c) Examples—Existing debt.

(i) Josh conveys his residence valued at \$200,000 to Samantha. Josh has \$25,000 in equity and an underlying debt of \$175,000. Josh continues to make the mortgage payments out of his own funds, and Samantha does not contribute any payments toward the debt. Since Josh continues to make the payments, there is no consideration from Samantha to Josh, and the transfer qualifies for exemption as a gift.

(ii) Josh conveys the residence to Samantha, and after the transfer, Samantha begins to make payments on the debt. Josh does not contribute to the payments on the debt after the title is transferred. Josh has made a gift of his \$25,000 equity, but real estate excise tax is due on the \$175,000 debt that Samantha is now paying.

(iii) Dan conveys his residence valued at \$200,000 to himself and Jill as tenants in common. Dan has \$25,000 in equity and an underlying debt of \$175,000. Dan and Jill open a new joint bank account, to which they both contribute funds equally. Mortgage payments are made from their joint account. There is a rebuttable presumption that real estate excise tax is due on the conveyance because Jill appears to be contributing toward payments on the debt. In that case, real estate excise tax is due on the consideration given by Jill, (50% of the underlying debt) based upon her contributions to the joint account. The tax will be calculated on a one-half interest in the existing debt (\$87,500).

(iv) Dan conveys the residence to himself and Jill. Dan has \$25,000 in equity, and a mortgage of \$175,000. Dan and Jill open a new joint bank account, which is used to make the mortgage payments, but Dan contributes 100% of the funds to the account. The conveyance is exempt from real estate excise tax, because Jill has not given any consideration in exchange for the transfer.

(v) Bob conveys his residence valued at \$200,000 to himself and Jane as tenants in common. Bob has \$25,000 equity, and an underlying debt of \$175,000. Bob and Jane have contributed varying amounts to an existing joint bank account for many years prior to the conveyance. Mortgage payments have been made from the joint account both before and after the transfer. The conveyance is exempt from real estate excise tax, because Jane's contributions toward the joint account from which the payments are made is not deemed consideration in exchange for the transfer from Bob (because she made contributions for many years before the

transfer as well as after the transfer, there is no evidence that her payments were consideration for the transfer).

(vi) Bill and Melanie, as joint owners, convey their residence valued at \$200,000 to Melanie, as her sole property. There is an underlying debt of \$170,000. Prior to the transfer, both Bill and Melanie had contributed to the monthly payments on the debt. After the transfer, Melanie begins to make 100% of the payments, with Bill contributing nothing toward the debt. Bill's equity (\$15,000) is a gift, but Melanie's taking over the payments on the mortgage is consideration received by Bill. Real estate excise tax is due on \$85,000 (Bill's fractional interest in the property multiplied by the outstanding debt at the time of transfer: $50\% \times \$170,000$).

(vii) Casey and Erin, as joint owners, convey their residence to Erin. There is an underlying debt of \$170,000 in both their names. For the three years prior to the transfer, Erin made 100% of the payments on the debt. After the transfer, Erin continues to make 100% of the payments. The transfer is exempt from the real estate excise tax because Erin made all the payments on the property before the transfer as well as after the transfer; there is no evidence that her payments were consideration for the transfer.

(d) Examples—Refinanced debt.

(i) Bob conveys his residence to himself and Jane. Within one month of the transfer, Bob and Jane refinance the underlying debt of \$175,000 in both their names, but Bob continues to make the payments on the debt. Jane does not contribute any funds toward the payments. The conveyance qualifies for the gift exemption because Jane gave no consideration for the transfer.

(ii) Casey and Erin, as joint owners, convey their residence valued at \$200,000 to Erin as sole owner. There is an underlying mortgage on the property of \$170,000. Prior to the transfer, Casey and Erin had both contributed to the monthly mortgage payments. Within one month of the transfer, Erin refinances the mortgage in her name only and begins to make payments from her separate account. In this case, there is a rebuttable presumption that this is a disguised sale, since Erin, through her refinance, has assumed sole responsibility for the underlying debt. Real estate excise tax is due on \$85,000 (Casey's fractional interest in the property multiplied by the total debt on the property: $50\% \times \$170,000$).

(iii) Kyle conveys his residence valued at \$200,000 to himself and Amy as tenants in common. Kyle has \$25,000 in equity, and an underlying debt of \$175,000. Within one month of the transfer, Kyle and Amy refinance the mortgage in both their names, and open a joint bank account to which they contribute funds equally. Payments on the new mortgage are made from the joint account. There is a rebuttable presumption that Amy's contributions to the joint account are consideration for the transfer, since Amy appears to have agreed to pay half of the monthly debt payment, and real estate excise tax may be due. The measure of the tax is one-half of the underlying debt to which Amy is contributing (\$87,500).

(iv) Kyle conveys his residence to himself and Amy. Kyle continues to make the payments on the underlying debt of \$175,000. Nine months after the transfer, Kyle and Amy refinance the property in both of their names. After the refinance, Kyle and Amy contribute equally to a new joint bank account from which the mortgage payments are now made.

Amy's contribution to the mortgage nine months after the transfer is not deemed consideration in exchange for the transfer from Kyle to the two of them as tenants in common. The conveyance will qualify for the gift exemption.

(e) **Example—Refinanced debt—"Cosigner."** Charlie and Sadie, a married couple, own a residence valued at \$200,000 with an underlying mortgage of \$170,000. Sadie receives the property when they divorce. After a few months, Sadie tries to refinance, but her credit is insufficient to obtain a loan in her name only. Aunt Grace offers to assist her by becoming a "co-borrower" on the loan. As a result, the bank requires that Aunt Grace be added to the title. Following the refinance, Sadie makes 100% of the payments on the new debt, and Aunt Grace gives no consideration for being added to the title. The conveyance adding Aunt Grace to the title is exempt from real estate excise tax. Although the quitclaim deed from Sadie to Aunt Grace may be phrased as a gift, the transfer is exempt as Aunt Grace's presence on the title acts as an exempt security interest to protect Aunt Grace in the event Sadie defaults on her mortgage. See WAC 458-61A-215 for this exemption.

(f) **Example—Rental or commercial property.** Sue owns a rental property valued at \$200,000, with an underlying mortgage of \$175,000. Sue conveys the property to herself and Zack as tenants in common. Prior to the transfer, the rental income went to a bank account in Sue's name only, and she made the mortgage payments from that account. After the transfer, Zack's name is added to the bank account. The rental income is now deposited in the joint account, and the mortgage payments are made from that account. There is a rebuttable presumption that this is a taxable transaction, because this appears to be a business arrangement. As a business venture, one-half of the rental income now belongs to Zack, and is being contributed toward payment of the mortgage. The real estate excise tax will be due on the one-half interest of the debt contributed by Zack (\$87,500).

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-201, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-202 Inheritance or devise. (1) Introduction. Transfers of real property by inheritance or devise are not subject to the real estate excise tax. For the purpose of this exemption, it does not matter whether the real property transferred was encumbered by underlying debt at the time it was inherited or devised.

(2) **Nonpro rata distributions.** A nonpro rata distribution is one in which the transfer of real property to the heirs or devisees may not be in proportion to their interests. For example, Aunt Mary wills her entire estate equally to her three nieces. The estate consists of her primary residence, a cottage at the ocean, and significant cash assets, among other things. Rather than take title to the two parcels of real estate in all three names, the estate may be distributed by deeding the primary residence to Meg, the oceanfront property to Beth, and the majority of the cash assets to Jo. Such distribution by a personal representative of a probated estate or by the trustee of a trust is not subject to the real estate excise tax if the transfer is authorized under the nonintervention powers of a personal representative under RCW 11.68.090 or under the nonpro rata distribution powers of a trustee under RCW 11.98.070(15), if no consideration is given to the personal

representative or the trustee for the transfer. For the purpose of this section, consideration does not include the indebtedness balance of any real property that is encumbered by a security lien.

(3) **Subsequent transfers.** A transfer of property from an heir to a third party is subject to the real estate excise tax. Examples:

(a) Steve inherits real property from his mother's estate. He sells the property to his son for \$50,000. The transfer of the property from the estate to Steve is exempt from real estate excise tax. The subsequent sale of the property to his son is a taxable event, and tax is due based upon the full sales price of \$50,000.

(b) Susan inherits real property from her father's estate. She decides to sell it to a friend on a real estate contract for \$100,000. Tax is due on the \$100,000.

(c) Sheri and her two sisters inherit their father's home, valued at \$180,000, in equal portions. Sheri wants sole ownership of the home but there are not "in-kind" assets of sufficient value to be distributed by the personal representative to her two sisters in a nonpro rata distribution. In order to take title directly from the personal representative, Sheri pays each of her sisters \$60,000, and they quitclaim their right to the property under the will. Tax is due on the total of \$120,000 paid for the property.

(4) **Community property or right of survivorship.** The transfer of real property to a surviving spouse in accordance with a community property agreement or a survivorship clause is not subject to real estate excise tax.

(5) **Joint tenants.** The transfer of real property upon the death of a joint tenant to the remaining joint tenants under right of survivorship is not subject to the real estate excise tax.

(6) **Life estates and remainder interests.** The conveyance of a life estate to the grantor with a remainder interest to another party is not a taxable transfer if no consideration passes. For example, Nate and Libby convey their property to their son, Rex, retaining a life estate for themselves. The transaction is not subject to real estate excise tax because Rex pays no consideration. Upon the deaths of Nate and Libby, the title will vest in Rex and no real estate excise tax is due. However, if Nate and Libby convey their property to Rex, retaining a life estate for themselves, and Rex pays any consideration for his future interest, the transaction is taxable. Tax is due on the total consideration paid.

(7) **Documentation.** In order to claim this exemption, the following documentation must be provided:

(a) **Community property agreement.** If the property is being transferred under the terms of a community property agreement, copies of the recorded agreement and certified copy of the death certificate;

(b) **Trusts.** If property is being transferred under the terms of a testamentary trust without probate, a certified copy of the death certificate, and a copy of the trust agreement showing the authority of the grantor;

(c) **Probate.** In the case of a probated will, a certified copy of the letters testamentary, or in the case of intestate administration, a certified copy of the letters of administration, showing that the grantor is the court appointed executor/executrix or administrator;

(d) **Joint tenants and remainder interests.** A certified copy of the death certificate is recorded to perfect title;

(e) **Other.** A certified copy of the court order requiring the transfer of property, and confirming that the grantor is required to do so under the terms of the order.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-202, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-203 Community property, dissolution of marriage, legal separation, decree of invalidity. (1) **Community property.** Transfers from one spouse to the other that establish or separate community property are not subject to the real estate excise tax.

(2) **Court decree.** The real estate excise tax does not apply to any transfer, conveyance, or assignment of property or interest in property from one spouse to the other in fulfillment of a settlement agreement incident to a decree of dissolution, declaration of invalidity, or legal separation.

(3) **Transfers to third parties.** A sale of real property by either one or both spouses to a third party is subject to the real estate excise tax, regardless of whether the sale is pursuant to the terms of a decree of dissolution, declaration of invalidity, or legal separation.

(4) **Former spouses.** Transfers of real property between ex-spouses that are independent of any settlement agreement incident to their decree of dissolution or decree of invalidity are subject to the real estate excise tax, unless otherwise exempt under this chapter.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-203, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-204 Tenants in common and joint tenants. (1) **Introduction.** The real estate excise tax does not apply to the transfer of real property that results in the creation of a tenancy in common or joint tenancy with or without right of survivorship if no consideration passes otherwise. See WAC 458-61A-201, Gifts.

(2) **Partition.** The partition of real property by tenants in common or joint tenants, by agreement or as the result of a court decree, is not subject to real estate excise tax. A partition results when tenants in common agree that certain tenants will be assigned certain particular tracts within the property that they own together. Transfers to partition real property are not subject to the real estate excise tax provided that the transfer is without additional consideration passing.

(3) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a grant of an interest in real property may qualify for this exemption. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(a) Betsy, Haley, and Kalli own five riverfront parcels as tenants in common. One parcel is worth twice as much as any of the others, which are all equivalent in value. The property is partitioned. Betsy receives the especially valuable parcel; Haley and Kalli receive two parcels each. No real estate excise tax is due, since the partition of the property is by agreement and no additional consideration passed between the parties.

(b) David and Corwin are business partners; they own two parcels of real estate as tenants in common. One parcel is

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valued at \$200,000 and has an underlying debt of \$175,000. The other parcel is valued at \$25,000 and has no underlying debt. Pursuant to a proceeding to liquidate their partnership, the court orders partition of the real property. David receives the more valuable parcel and assumes full responsibility for the debt. Corwin receives the less valuable parcel. No real estate excise tax is due, because the partition of the property is pursuant to a court order.

(4) The transfer of property upon the death of a joint tenant to the remaining joint tenants under a right of survivorship is not subject to the real estate excise tax. Transfers of real property by inheritance are not subject to the real estate excise tax. WAC 458-61A-202, Inheritances or devise, is cited on the real estate excise tax affidavit to claim an exemption from the real estate excise tax for such transfers.

(5) The sale of an interest in real property from one or more joint tenants or tenants in common to remaining tenants or to a third party is a taxable transaction. The taxable amount of the sale is the total of the following:

(a) Any consideration given; and

(b) Any consideration promised to be given, including the amount of any debt remaining unpaid on the property at the time of sale multiplied by that fraction of interest in the real property being sold.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-204, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-205 Government transfers. (1) **Introduction.** Transfers of real property from a government entity are not subject to the real estate excise tax. Transfers of real property to a government entity are subject to real estate excise tax unless specifically exempted under this chapter. A completed real estate excise tax affidavit is required for transfers both to and from a government entity.

(2) **Government seller.** A governmental entity selling real property is exempt from the real estate excise tax.

(3) **Government purchaser.** Generally, a seller that is not a governmental entity must pay real estate excise tax on voluntary sales of real property to a governmental entity unless the transfer is otherwise exempt under this chapter. See WAC 458-61A-206 regarding transfers pursuant to condemnation proceedings or under threat of the exercise of eminent domain.

(4) **Transfers for a public purpose.** Transfers to a governmental entity for a public use in connection with the development of real property by a developer when the transfer is required for plat approval are not subject to the real estate excise tax. For example, a developer who deeds property to the city for streets and utilities is not subject to real estate excise tax on the transfer.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-205, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-206 Condemnation proceedings. (1) **Introduction.** Transfers of real property to a governmental entity under an imminent threat of the exercise of eminent domain, a court judgment or settlement with a government entity based upon a claim of inverse condemnation, or as a result of the actual exercise of eminent domain, are not subject to the real estate excise tax.

(2) **Transfer must be to a governmental entity.** To qualify for this exemption, the threat of condemnation or the exercise of eminent domain must be made by a governmental entity with the actual power to exercise eminent domain.

(3) **Threat to exercise eminent domain must be imminent.** To qualify for this exemption, the governmental entity must have either filed condemnation proceedings against the seller/grantee; or:

(a) The governmental entity must have notified the seller in writing of its intent to exercise its power of eminent domain prior to the sale; and

(b) The governmental entity must have the present ability and authority to use its power of eminent domain against the subject property at the time of sale; and

(c) The governmental entity must have specific statutory authority authorizing its power of eminent domain for property under the conditions presented.

(4) **Inverse condemnation.** Inverse condemnation occurs when the government constructively takes real property even though formal eminent domain proceedings are not actually taken against the subject property. The seller must have a judgment against the governmental entity, or a court approved settlement, based upon inverse condemnation to claim the exemption.

(5) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a sale to a governmental entity may or may not be exempt on the basis of condemnation or threat of eminent domain. The status of each situation must be determined after a review of all the facts and circumstances.

(a) The Jazz Port school district wants to purchase property for a new school. An election has been held to authorize the use of public funds for the purchase, and the general area for the site has been chosen. In order to proceed, the district will need to obtain a five-acre parcel owned by the Fairwood family. The district has been granted authority to obtain property by the use of eminent domain if required. The district has notified the Fairwoods in writing of its intention to exercise its powers of eminent domain if necessary to obtain the land. The Fairwoods, rather than allowing the matter to proceed to court, agree to sell the parcel to the Jazz Port district. The school district will use the parcel for construction of the new school. The conveyance from the Fairwoods to Jazz Port school district is exempt from real estate excise tax because the transfer was made under the imminent threat of the exercise of eminent domain.

(b) The Sonata City Parks Department has the authority to obtain land for possible future development of parks. The department would like to obtain waterfront property for preservation and future development. They approach Frankie and Chaz Friendly with an offer to purchase the Friendlys' 20-acre waterfront parcel. The Parks Department does not have a current appropriation for actual construction of a park on the site, and the City Council has not specifically authorized an exercise of eminent domain to obtain the subject property. The conveyance from the Friendlys to the city is subject to the real estate excise tax, because the transfer was not made under the imminent threat of the exercise of eminent domain.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-206, filed 11/16/05, effective 12/17/05.]

[Title 458 WAC—p. 576]

WAC 458-61A-207 Bankruptcy. (1) Introduction.

The real estate excise tax does not apply to the conveyance of real property by a trustee in bankruptcy or debtor in possession made after the plan is confirmed under a chapter 11 or chapter 12 plan. Federal law preempts real estate excise tax on these transfers.

(2) **Documentation requirements.** A copy of the Order of Confirmation or an extract from the Confirmed Bankruptcy Plan, showing the date the bankruptcy plan was confirmed, the court case cause number, and the bankruptcy chapter number must be attached to the real estate excise affidavit provided to the department.

[Statutory Authority: [RCW 82.32.300, 82.45.150, and 82.01.060(2)]. 06-15-021, § 458-61A-207, filed 7/7/06, effective 8/7/06; 05-23-093, § 458-61A-207, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-208 Foreclosure—Deeds in lieu of foreclosure—Sales pursuant to court order. (1) Introduction.

The real estate excise tax does not apply to any transfer or conveyance made pursuant to an order of sale by a court in any mortgage or lien foreclosure proceeding or upon execution of a judgment. Real estate excise tax affidavits which state claims for this tax exemption must cite the cause number of the foreclosure proceeding on the affidavit and the conveyance document. A copy of the court decision must be attached to the department's affidavit copy by the county treasurer.

(2) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a transfer may or may not qualify for this exemption. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(a) Joan and Sam are friends. They decide to jointly purchase real property worth \$100,000 as tenants in common. One year later, they decide to end their co-ownership of the property. Joan and Sam cannot agree on how the property should be divided. They both obtain legal counsel and go to court to resolve the issue. The court orders that Sam will deed his interest in the real property to Joan and Sam will be paid \$65,000 for his interest in the property. No real estate excise tax is due on the transfer since the transfer is pursuant to a court ordered sale.

(b) Rather than going to trial, Joan and Sam agree to a settlement during the course of their negotiations. The attorneys draft an agreeable settlement under which Sam will get the property and Joan will be paid \$75,000. The settlement agreement is presented to the court and the judge signs off on the agreement. Tax is due on the transfer because this is not a court ordered sale.

(3) **Foreclosure and contract forfeiture.** The real estate excise tax does not apply to the following transfers where no additional consideration passes:

(a) A transfer by deed in lieu of foreclosure to satisfy a mortgage or deed of trust;

(b) A transfer from a contract purchaser to the contract holder in lieu of forfeiture of a contract of sale upon default of the underlying obligation; or

(c) A transfer occurring through the cancellation or forfeiture of a vendee's interest in a contract for the sale of real property, regardless of whether the contract contains a forfei-

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ture clause, such as a declaration of forfeiture made under the provisions of RCW 61.30.070.

(d) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a transfer may or may not qualify for this exemption. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(i) Meg sells real property to Julie on a real estate contract. The contract price is \$65,000. Julie makes payments for one year and then loses her job and can't make payments on the contract. Julie feels that she has some equity in the property, but she and Meg disagree on how to resolve the issue. Eventually, they come to an agreement. Meg will pay Julie \$1,500; Julie will sign a deed in lieu of forfeiture and transfer the property to Meg. At the time of the deed in lieu of forfeiture, the outstanding balance of the contract was \$61,000. Even though the transfer was by a deed in lieu of forfeiture, there is additional consideration passing (the \$1,500). The transfer is subject to tax. The taxable selling price is \$62,500, which is the total of the outstanding contract balance that was canceled plus the \$1,500 paid to Julie.

(ii) Sally sells real property to Frank. Frank obtains a \$150,000 loan from Easy Bank. The bank secures the loan with a deed of trust on the real property. Frank is unable to make the payments on the loan. Frank transfers the property back to Easy Bank by deed in lieu of foreclosure to satisfy the deed of trust. No real estate excise tax is due on the transfer.

(iii) Mel sells real property to George. George obtains a \$100,000 loan from Zephyr Bank. The bank secures the loan with a deed of trust on the real property. George is unable to make the payments on the loan. George obtains a second loan of \$25,000 from Sam. Sam secures his loan with a second deed of trust on the real property. Sam's deed of trust is in junior position to Zephyr Bank's deed of trust. Later, George can't make payments to either the bank or Sam. At this time, George owes the Bank \$95,000 and Sam \$23,000. George transfers the real property to Sam by deed in lieu of foreclosure to satisfy Sam's junior deed of trust. The debt to Zephyr Bank (the senior position debt) remains unpaid on the property at the time of transfer. The transfer is partially exempt and partially taxable. The deed in lieu of the junior position debt is exempt. The senior position debt to the bank that remains outstanding on the property at the time of the transfer meets the definition of consideration and is subject to tax. Tax would be due on \$95,000.

(iv) Joe purchases a manufactured home and has it installed in a mobile home park. Joe signs a contract with the mobile home park owner to pay \$300 in monthly rent. If the rent is not paid, the contract states that the park owner has a lien against the manufactured home. Joe is injured and moves in with relatives in another state. Joe does not pay rent for six months. The park owner, takes title to the mobile home under the authority of the rent contract, and puts it up for sale to recover his interest for back rent. The park owner sells the manufactured home to Mimi. No tax is due on the transfer to the park owner, since that transfer was to satisfy a lien on the property. Real estate excise tax is due on the sale to Mimi.

(4) **Deed of trust.** The real estate excise tax does not apply to the foreclosure sale of real property by the trustee

under the terms of a deed of trust, whether to the beneficiary listed on that deed or to a third party.

(5) **Assignment of indebtedness.** A transfer from a servicing agent, who has acquired real property under this section, to the actual owner of the indebtedness that was foreclosed upon is not subject to real estate excise tax. A copy of the assignment of the indebtedness or a copy of the trustee's deed identifying the servicing agent as an agent for the actual owner must be attached to the real estate excise tax affidavit provided to the department for exemptions claimed under this subsection.

For example, Gil sells real property to Max. Max obtains a \$125,000 loan from Zone Finance. The finance company secures the loan with a deed of trust on real property. Zone Finance sells the loan to Federal National Mortgage Association (Fannie Mae). The finance company becomes the servicing agent for the loan. Max can't make payments on the loan. Due to nonpayment on the debt, the Trustee (under the authority of the Deed of Trust) conducts a Trustee's sale of the real property. The Trustee transfers the property to the Zone Finance via a Trustee's Deed. No real estate excise tax is due on that transfer. Zone Finance Company transfers real property to Fannie Mae, the actual owner of the debt. No real estate excise tax is due on that transfer.

(6) **Sheriff's sale.**

(a) **Introduction.** The real estate excise tax does not apply to a transfer of real property made by a county sheriff pursuant to a court decree. A real estate excise tax affidavit must be filed with the county.

(b) The real estate excise tax applies to a subsequent sale or assignment of the right of redemption and the certificate of purchase that result from the sheriff's sale. The taxable consideration includes any payment given or promised to be given. It also includes the amount of underlying encumbrance, the payment of which is necessary for the exercise of the right of redemption.

(c) **Examples.**

(i) Bill sells property to Sam on a contract. After one year, Sam stops making payments on the contract. Bill obtains a judgment against Sam for nonpayment. At the Sheriff's sale, Bill obtains a certificate of purchase. Sam obtains the right of redemption. Sam is unable to make payment to redeem the right of redemption during the redemption period. When the redemption period is over, Bill turns the certificate of purchase over to the Sheriff. The Sheriff issues a Sheriff's Deed to Bill. No real estate tax is due on the issuance of the Sheriff's deed to Bill.

(ii) Alternatively, at the Sheriff's sale, Bill obtains a certificate of purchase. Sam obtains the right of redemption. To exercise the right of redemption, the holder must remit \$50,000 to the Sheriff. Sam sells the right of redemption to Jerry for \$10,000. Real estate excise tax is due on \$60,000 for the transfer of the right of redemption from Sam to Jerry. Jerry exercises the right of redemption by paying \$50,000 to the Sheriff. The Sheriff issues a Sheriff's Deed to Jerry. No real estate tax is due on the issuance of the Sheriff's deed to Jerry.

(7) **Documentation.** In addition to the documentation requirements set forth in subsections (1) and (5) of this section, a copy of the recorded original mortgage, deed of trust,

contract of sale, or lien document must be presented with the real estate excise tax affidavit.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-208, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-209 Rescission of sale. (1) Introduction. The reconveyance of property due to a rescission of sale is not subject to the real estate excise tax.

(2) **Consideration must be repaid to buyer.** To qualify for exemption under this rule, all consideration paid toward the selling price must be returned by the seller to the buyer at the time of the reconveyance.

(a) A seller may retain interest paid by the buyer without disqualifying the exemption.

(b) The payment of a reasonable reimbursement for site improvements will not disqualify the exemption.

(3) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a reconveyance may or may not be exempt on the basis of a rescission of sale. The status of each situation must be determined after a review of all the facts and circumstances.

(a) Scott sold his property to Mary by real estate contract for \$200,000 on January 15, 2004. Real estate excise tax was paid to Lion County. Mary gave Scott a down payment of \$10,000 and started making monthly payments of \$1,000 per month to Scott beginning March 2004. In September 2004 Mary notified Scott that she lost her job and wanted to rescind the purchase contract. Scott agreed to take the property back and returned the down payment of \$10,000, and the monthly principal payments totaling \$600 to Mary. The transfer back to Scott from Mary is exempt from real estate excise tax.

(b) Tony purchased Charlie's property by real estate contract for \$100,000 in March 2003. Real estate excise tax of \$1,780 was paid to Puget County. Tony made a \$15,000 down payment and began making \$800 monthly contract payments in May 2003. On October 31, 2004, Tony found out that the property had some minor problems and he wanted to rescind the purchase. Charlie agreed to take the property back but would not give back the money Tony had paid to Charlie for the property. Since all consideration paid toward the purchase of the property was not returned by Charlie, the transfer from Tony to Charlie does not qualify for exemption from real estate excise tax under this rule.

(c) Julie contracted to sell property to Amanda for \$150,000 in April 2004. Julie paid real estate excise tax to Rainier County before Amanda obtained financing. Amanda made a \$20,000 down payment to Julie and applied for a conventional loan to pay the balance of \$130,000. Subsequently, Amanda found out she could not qualify for a loan due to her past credit history. Amanda transferred the property back to Julie, and Julie returned the \$20,000 down payment to Amanda. The transfer back to Julie is exempt from real estate excise tax. In addition, the initial transfer from Julie to Amanda is exempt because Amanda was unable to qualify for a loan to finalize the purchase of the property.

(4) **Refunds.** See WAC 458-61A-301 for refund procedures with respect to real estate excise tax paid on original transfer when the sale is later rescinded.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-209, filed 11/16/05, effective 12/17/05.]

[Title 458 WAC—p. 578]

WAC 458-61A-210 Irrevocable trusts. (1) Introduction. The distribution of real property to the beneficiaries of an irrevocable trust is not subject to the real estate excise tax if no valuable consideration is given for the transfer and the distribution is made according to the trust instrument.

(2) **Transfer into trust.** A conveyance of real property to an irrevocable trust is subject to the real estate excise tax if:

(a) The transfer results in a change in the beneficial interest and not a mere change in identity or ownership; and

(b) There is valuable consideration for the transfer.

(3) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a trust conveyance may or may not be exempt from real estate excise tax. The status of each situation must be determined after a review of all the facts and circumstances.

(a) Eric and Annie, husband and wife, transfer real property valued at \$500,000 to an irrevocable trust. The property has an underlying debt of \$300,000 that is secured by a deed of trust. Under the terms of the trust, the trustee is required to pay all the income annually to the grantors (Eric and Annie), or to the survivor if one of them dies. Upon the death of both Eric and Annie, the property will be divided equally among their children. The conveyance of the property into the trust is not subject to the real estate excise tax, even if the trust pays the indebtedness, because there has been no change in the present beneficial interest, and Eric and Annie did not receive consideration for the transfer.

(b) Jim and Jean, husband and wife, own real property valued at \$800,000. Upon Jean's death, her one-half interest in the property is transferred to Jean's testamentary trust under the terms of her will. Jim, as trustee, has sole discretion to accumulate income or to pay income to himself, or to their children, or to their grandchildren, or to each. The transfer to the trust is not subject to real estate excise tax. See WAC 458-61A-202.

(c) Upon Jean's death, Jim's remaining half-interest in the property is valued at \$400,000, with an underlying debt of \$30,000, for which he is personally liable. Jim transfers his half-interest to Jean's testamentary trust, and the trust pays or is obligated to pay the indebtedness. The conveyance of Jim's one-half interest is subject to real estate excise tax, because the transfer involves both a present change in the beneficial interest (after Jean's death, assets in Jean's trust are legally separate from assets belonging to Jim) and there is valuable consideration in the form of relief of liability for the debt. The real estate excise tax is due on the amount of the consideration (\$30,000).

(4) **Revocable trusts.** See WAC 458-61A-211 for the taxability of transfers into a revocable trust.

(5) **Documentation.** When real property is transferred to or from a testamentary trust, or real property is transferred to or from an irrevocable trust, the following must be provided:

(a) A copy of the trust instrument; or

(b) A statement signed by the trustee or the grantor, or the representative of the trustee or grantor containing the following information:

(i) The name, address, and telephone number of the trustee or grantor, and/or representative of the trustee or grantor who is authorized to represent the trustee or grantor before the department of revenue;

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- (ii) The character of the trust, e.g., testamentary, irrevocable living trust, etc.;
- (iii) The nature of the transfer:
 - (A) If the transfer is to or from a testamentary trust, the nature of and reason for the transfer.
 - (B) If the transfer is to or from an irrevocable living trust:
 - (I) The nature and reason for the transfer;
 - (II) Whether or not the property is encumbered with debt; and
 - (III) Whether or not the trustee may, at the time of the transfer, distribute income and/or principal to a person(s) other than the grantor(s).

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-210, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-211 Mere change in identity or form—Family corporations and partnerships. (1) **Introduction.** A transfer of real property is exempt from the real estate excise tax if it consists of a mere change in identity or form of ownership of an entity. This exemption is not limited to transfers involving corporations and partnerships, and includes transfers of trusts, estates, associations, limited liability companies and other entities. If the transfer of real property results in the grantor(s) having a different proportional interest in the property after the transfer, real estate excise tax applies.

(2) **Qualified transactions.** A mere change in form or identity where no change in beneficial ownership has occurred includes, but is not limited to:

(a) The transfer by an individual or tenants in common of an interest in real property to a corporation, partnership, or other entity if the entity receiving the ownership interest receives it in the same pro rata shares as the individual or tenants in common held prior to the transfer. (See also WAC 458-61A-212, Transfers where gain is not recognized under the Internal Revenue Code.)

(b) The transfer by a corporation, partnership, or other entity of its interest in real property to its shareholders or partners, who will hold the real property either as individuals or as tenants in common in the same pro rata share as they owned the corporation, partnership, or other entity. To the extent that a distribution of real property is disproportionate to the interest the grantee partner has in the partnership, it will be subject to real estate excise tax.

(c) The transfer by an entity of its interest in real property to its wholly owned subsidiary, the transfer of real property from a wholly owned subsidiary to its parent, or the transfer of real property from one wholly owned subsidiary to another.

(d) The transfer by a corporation, partnership or other entity of its interest in real property to another corporation, partnership, or other entity if the grantee owner(s) receives it in the same pro rata shares as the grantor owner(s) held prior to the transfer.

(e) Corporate mergers and consolidations that are accomplished by transfers of stock or membership, and mergers between corporations and limited partnerships as provided in chapters 25.10 and 24.03 RCW.

(f) A transfer of real property to a newly formed, beneficiary corporation from an incorporator to the newly formed corporation, provided:

- (i) The proper real estate excise tax was paid on the original transfer to the incorporator; and
- (ii) It was documented on or before the original transfer that the incorporator received title to the property on behalf of that corporation during its formation process.

This tax exemption does not apply to a transaction in which a property owner acquires title in his or her own name and later transfers title to the corporation upon its formation.

(g) A transfer into any revocable trust.

(h) A conveyance from a trustee of a revocable trust to the original grantor or to a beneficiary if no valuable consideration passes, or if the transaction is otherwise exempt under this chapter (for example, a gift or inheritance). A sale of real property by the trustee to a third party, or to a beneficiary for valuable consideration, is subject to the real estate excise tax.

(3) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a grant of an interest in real property may or may not qualify for this exemption. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(a) Andy owns a 100% interest in real property. He transfers his property to his solely owned corporation. The transfer is exempt from real estate excise tax because there has been no change in the beneficial ownership interest in the property.

(b) Elizabeth owns a 100% interest in real property, and is the sole owner of Zippy Corporation. She transfers her property to Zippy. The corporation pays \$5,000 to Elizabeth and agrees to make payments on the underlying debt on the property. Despite the fact that there was consideration involved in the transfer, it is still exempt from tax because there was no change in beneficial ownership.

(c) Jim, Kathie, and Tim own real property as joint tenants. They transfer their property to their LLC in the same pro rata ownership. The transfer is exempt from real estate excise tax because there has been no change in beneficial ownership.

(d) Pat, Liz, and Erin own Stage Corporation. They also own Song & Dance Partnership, in the same pro rata ownership percentages as their interests in the corporation. Stage Corporation transfers real property to Song & Dance Partnership. The transfer is exempt from real estate excise tax, because there has been no change in beneficial interest.

(e) Morgan owns real property. Brea owns Sparkle Corporation. Morgan transfers real property to Sparkle in exchange for an interest in the corporation. The transfer is subject to real estate excise tax because there has been a change in the beneficial interest in the real property. The tax applies to the extent that the transfer of real property results in the grantor having a different proportional interest in the property after it is transferred. (Note, however, that Morgan and Brea may be able to structure their transaction in a manner that would qualify for exemption under WAC 458-61A-212.)

(f) Dan owns property as sole owner. Jill owns property as sole owner. Dan and Jill each transfer their property to Rhyming LLC, which they form together. The transfers are taxable because there has been a change in the beneficial ownership interest in the real property. To the extent that the transfer of real property results in the grantor having a different proportional interest in the property after the transfer, it is

taxable. (Note, however, that Dan and Jill may qualify for an exemption under WAC 458-61A-212.)

(g) Fred and Steve are equal partners in Jazzy Partnership. They decide to transfer real property from the partnership to themselves as individuals. Based on its true and fair value, the partnership transfers 60% of the real property to Fred and 40% to Steve. This distribution is not in proportion to their ownership interest in Jazzy Partnership, and the transfer is not exempt because there has been a change in the beneficial ownership interest. To the extent that the transfer of property results in the grantor having a different proportional interest in the property after the transfer, it is taxable. (Note, however, that Fred and Steve may qualify for an exemption under WAC 458-61A-212.)

(4) Disparate treatment of ownership interests.

(a) Where the ownership of real property is different for financial accounting purposes than for federal tax purposes, the beneficial ownership interest in the real property is deemed the entity which is the owner for financial accounting purposes. Any transfer from the entity that is the owner for federal tax purposes to the owner for financial accounting purposes, or vice versa, is subject to the real estate excise tax.

(b) For example, Giant Company wants to expand its business. It identifies some real property, but is unable to finance the purchase through a normal loan. It contracts with Mega Loans Inc. to enter into a "synthetic lease" for the purchase of the real property. Under the terms of the synthetic lease, Mega Loans will take title to the real property, and Giant Company will lease it from Mega Loans. Real estate excise tax is paid on the purchase of the real property by Mega Loans. The terms of the lease also provide that Giant Company will be the owner for federal tax purposes and Mega Loans will be the owner for financial accounting purposes. Per the lease agreement, after a specified time Mega Loans will transfer title to the real property to Giant Company. The transfer of title from Mega Loans to Giant Company is subject to real estate excise tax.

(5) Family corporations, partnerships, or other entities. This exemption applies to transfers to an entity that is wholly owned by the transferor and/or the transferor's spouse or children, regardless of whether the transfer results in a change in the beneficial ownership interest. However, real estate excise taxes will become due and payable on the original transfer as otherwise provided by law if:

(a) The partnership or corporation thereafter voluntarily transfers the property; or

(b) The transferor, spouse or children voluntarily transfer stock in the corporation, or interest in the partnership capital to other than:

(i) The transferor and/or the transferor's spouse or children;

(ii) A trust having the transferor and/or the transferor's spouse or children as the only beneficiaries at the time of transfer to the trust; or

(iii) A corporation or partnership wholly owned by the original transferor and/or the transferor's spouse or children, within three years of the original transfer to which this exemption applies, and the tax on the subsequent transfer is not paid within sixty days of becoming due.

For example, parents own real property as individuals. They create an LLC that is owned by themselves and their

three children. The parents transfer the real property to the LLC. Despite the fact that there was a change in beneficial ownership interest, it is still exempt from tax, because the LLC is owned by the grantor and/or the grantor's spouse or children.

(6) Transfers when there is not a change in identity or form of ownership of an entity. This exemption applies to transfers of real property when the grantor and grantee are the same.

For example, John and Megan own real property as tenants in common. They decide that they prefer to hold the property as joint tenants with rights of survivorship. John and Megan, as tenants in common, convey the property to John and Megan as joint tenants with rights of survivorship. The transfer is exempt from real estate excise tax.

[Statutory Authority: RCW 82.32.300, 82.04.150, and 82.01.060(2). 06-20-036, § 458-61A-211, filed 9/25/06, effective 10/26/06. Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-211, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-212 Transfers where gain is not recognized under the Internal Revenue Code. (1) Introduction. A transfer that, for federal income tax purposes, does not involve the recognition of gain or loss for entity formation, liquidation or dissolution, and reorganization, is not subject to the real estate excise tax.

(2) Internal Revenue Code sections. This exemption includes, but is not limited to, nonrecognition of loss or gain under the following sections of the Internal Revenue Code of 1986:

(a) Section 332 - Corporate liquidations - Complete liquidations of subsidiaries.

(b) Section 337 - Corporate liquidations - Nonrecognition for property distributed to parent in complete liquidation of subsidiary.

(c) Section 351 - Corporate organizations and reorganizations - Transfer to corporation controlled by transferor.

(d) Section 368 (a)(1) - Corporate organizations and reorganization - Definitions relating to corporate reorganizations - Reorganizations - In general.

(e) Section 721 - Partners and partnerships - Nonrecognition of gain or loss on contribution.

(f) Section 731 - Partners and partnerships - Extent of recognition of gain or loss on distribution.

(3) Extent of exemption. This exemption applies only to transfers that qualify as nonrecognition of gain or loss transactions under the Internal Revenue Code for entity formation, liquidation or dissolution, and reorganization.

(a) This exemption does not apply to transactions under Internal Revenue Code section 1031 - Exchange of property held for productive use or investment. That section of the Internal Revenue Code does not deal with entity formation, liquidation or dissolution, or reorganization. (See WAC 458-61A-213, IRS "tax deferred" exchanges.)

(b) This exemption does not apply to sales under Internal Revenue Code section 1034 - Rollover of gain on sale of principal residence. That section of the Internal Revenue Code does not deal with entity formation, liquidation or dissolution, or reorganization.

(4) Treatment when gain is partially recognized in an otherwise exempt transaction. In the event a transaction

qualifies for the exemption under this section as a nonrecognition of gain or loss transaction for entity formation, liquidation or dissolution, or reorganization, but a gain is partially recognized under the Internal Revenue Code provisions, the real estate excise tax applies to the amount of the transaction for which gain is recognized.

(5) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a grant of an interest in real property may or may not qualify for exemption under this rule. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(a) In an otherwise nontaxable Internal Revenue Code section 351 transaction, Nate transfers to ZULU Corporation real property which has a true and fair value of \$100,000. Nate receives, in exchange, ZULU stock worth \$80,000, cash of \$5,000, and a promissory note from ZULU to pay Nate \$15,000 monthly, starting at closing, for 36 months at 6% interest. The \$5,000 cash received and the \$15,000 promissory note constitute "boot" under the provisions of section 351 and gain is recognized to the extent of the "boot." For real estate excise tax purposes, the taxable portion is 20% (\$20,000/\$100,000) and the real estate excise tax applies to 20% of the true and fair value of the real property transferred, or \$20,000.

(b) In an otherwise nontaxable Internal Revenue Code section 351 transaction, Sally transfers real property with a true and fair value of \$50,000, and machinery worth \$250,000, to ECHO Corporation. In exchange, Sally receives ECHO stock worth \$275,000 and cash of \$25,000. The cash received constitutes "boot" and gain is recognized. For real estate excise tax purposes, the nonexempt portion of the transaction is 8.3% (\$25,000/\$300,000). The nonexempt percentage (8.3%) is applied to the true and fair value of the real property (\$50,000) to arrive at the amount \$4,167. Real estate excise tax is due on \$4,167.

(c) Brenda and Julie are partners in LIMA Partnership. In a nontaxable Internal Revenue Code section 721 transaction, Mike transfers real property to LIMA Partnership in exchange for a partnership interest in LIMA Partnership. No consideration, other than the partnership interest in LIMA Partnership, is given to Mike in exchange for Mike's transfer of real property. Because the transfer is exempt under Internal Revenue Code section 721, the real estate excise tax does not apply to Mike's conveyance of real property to LIMA Partnership.

(d) Brenda and Julie are also partners in GOLF Partnership. In a nontaxable Internal Revenue Code section 721 transaction, Mike contributes cash to GOLF Partnership in exchange for a 60% partnership interest in GOLF Partnership. The cash is used by the partnership to develop real property owned by the GOLF Partnership. Because the transfer is exempt under Internal Revenue Code section 721, the real estate excise tax does not apply to Mike's acquisition of a partnership interest in GOLF Partnership.

(6) **Rules of construction.** In determining whether a transfer qualifies for exemption under this section, the department will consider the law, regulations, bulletins, technical memoranda, letter rulings, etc., of the Internal Revenue Code and the Internal Revenue Service, as interpreted by the

courts. Determinations of taxability under this chapter will be given the same treatment as the final determination of taxability for federal tax purposes.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-212, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-213 IRS "tax deferred" exchange. (1)

Introduction. This rule describes the application of the real estate excise tax in transfers involving an exchange facilitator. An "exchange facilitator" is a person who acts as an agent on behalf of another person in connection with an exchange of real property under section 1031 of the Internal Revenue Code section 1031 of 1986.

(2) Acquisition of property by an exchange facilitator in connection with a section 1031 tax deferred exchange is subject to the real estate excise tax.

(3) The later transfer of the property by the facilitator in completion of the exchange is subject to real estate excise tax, unless the following requirements are met:

(a) The proper tax was paid on the initial transaction;

(b) A supplemental statement signed by the exchange facilitator, as provided by WAC 458-61A-304, is attached to the real estate excise tax affidavit indicating that the facilitator originally took title to the property for the sole purpose of effecting a section 1031 federal tax deferred exchange; and

(c) The funds used by the exchange facilitator to acquire the property were provided by the grantee and/or received from the proceeds of the sale of real property owned by the grantee.

(4) If the deeds for both transactions to and from the facilitator are being recorded at the same time, the proper tax can be paid on either the first or the second transaction at the discretion of the facilitator.

(5) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a conveyance of real property may or may not qualify for exemption under this rule. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(a) Bob owns commercial real property in Princeton County worth \$400,000. Bob wants to exchange his property in Princeton County for other commercial property in Eagle County owned by Sally. Sally agrees to sell her Eagle County property to Bob for \$600,000. Bob places his commercial property in Princeton County for sale. John contacts Bob and agrees to purchase the Princeton County property for \$450,000. Bob contacts Ted, an exchange facilitator, to arrange for a transfer of his property as a 1031 federal tax deferred exchange. Per Ted's instructions, Bob transfers the Princeton County property to Ted. Ted transfers the Princeton County property to John and receives \$450,000. Real estate excise tax is due on the transfer from Bob to Ted. No tax is due on the transfer from Ted to John. The Eagle County property is transferred from Sally to Ted for the \$600,000 sales price, \$450,000 which was received from the Princeton County sale and \$150,000 from a new loan obtained by Bob. Ted transfers the Eagle County property to Bob. Tax is due on the transfer from Sally to Ted. No tax is due on the transfer from Ted to Bob.

(b) Bob is unable to find a buyer for his Princeton County property. Bob contacts Ted, the exchange facilitator, to arrange for a transfer of his property as a 1031 federal tax deferred exchange. Per Ted's instructions, Bob transfers the Princeton County property to Ted. Ted holds the property until Bob can locate a buyer. Real estate excise tax is due on the transfer from Bob to Ted. The Eagle County property is transferred from Sally to Ted for the \$600,000 sales price, provided from a \$600,000 new loan obtained by Bob. Ted transfers the Eagle County property to Bob. Tax is due on the transfer from Sally to Ted. No tax is due on the transfer from Ted to Bob. One month later, Joan agrees to purchase the Princeton County property. Ted transfers the property to Joan for \$350,000. Tax is due on the transfer from Ted to Joan, because the funds used by Ted to acquire the Princeton County property from Bob were not provided by Joan.

(6) **Documentation.** A real estate excise tax affidavit is required for each transfer in a section 1031 exchange including the transfers to and from an exchange facilitator. The affidavit reflecting the claim for tax exemption must show the affidavit number and date of the tax payment, and have attached the supplemental statement as provided by WAC 458-61A-304 and subsection (3)(b) of this section.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-213, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-214 Nominee. (1) **Introduction.** This rule describes the application of the real estate excise tax in transfers involving a nominee. A "nominee" is a person who acts as an agent on behalf of another person in the purchase of real property.

(2) **Initial acquisition.** The initial acquisition of property by a nominee on behalf of a third party is subject to the real estate excise tax.

(3) **Subsequent transfer.** The later transfer of the property by the nominee to the third party purchaser is subject to real estate excise tax, unless each of the following requirements is met:

(a) The proper tax was paid on the initial purchase of the property by the nominee;

(b) The funds used by the nominee to acquire the property were provided by the third party;

(c) The third party legally existed at the time of the initial transaction; and

(d)(i) The subsequent transfer from the nominee to the third party is not for a greater consideration than that of the initial acquisition; or

(ii) In the case where the nominee is a licensed contractor and the subsequent transfer to the third party (customer) reflects the completed construction contract, the retail sales tax is collected on the construction contract and remitted to the department. See also WAC 458-61A-104.

For example, Sara finds a home to buy. However, she is in the military and has learned she is going to be called to duty out of the country. She gives her money for the home purchase to Tom, who finalizes the purchase and obtains the mortgage in his name. Sara pays the down payment, closing costs, and makes all the payments on the mortgage. When Sara returns from duty, Tom will transfer the home back to her, and she will refinance the mortgage into her own name. Tom's transfer to Sara is exempt from real estate excise tax,

as Tom was acting as her nominee in the purchase of the home and all funds associated with the purchase of the home have come from Sara.

(4) If the nominee is a licensed contractor transferring to the third-party principal at the completion of a construction contract, proof of the payment to the department of retail sales tax on the construction contract must be attached to the affidavit.

For example, Bill contracted with Phil's Construction to build a home for him on a lot Phil will acquire. Phil buys a lot from Kevin. Real estate excise tax is paid on the sale from Kevin to Phil. Phil's Construction builds the home and collects retail sales tax on the total construction contract, which is then remitted to the department of revenue. Phil's Construction files a real estate excise tax affidavit with the county, together with proof that retail sales tax has been paid. The transfer of the lot and completed home from Phil's Construction to Bill is exempt from real estate excise tax.

(5) **Documentation.** The parties must provide documentation that they have met all the requirements necessary to claim this exemption. Acceptable documentation includes a notarized statement, dated on or before the date of the initial purchase, that the nominee acquired the property on behalf of the third party, or other documentation clearly demonstrating the requirements of subsection (3) of this section have been satisfied. Such documentation may include, but is not limited to, financial documentation evidencing the nominee/third-party relationship existed from the time of the original transfer, and confirming the source of the funds used to purchase the property.

Examples.

(a) Tom is on title to property. Tom wants to transfer the property to Angie and claim the nominee exemption, but they do not have a notarized statement. In lieu of that statement, Angie presents documentation that she provided the funds for the down payment and all closing costs for the initial purchase of the property. Angie also presents documentation that she provided the funds on the first year's payments on the debt after the initial purchase and provided funds for the last year's payments on the debt. This is acceptable documentation that the requirements of subsection (3) of this section have been satisfied.

(b) Dan wants to buy a house and executes an earnest money agreement, contingent on financing. When he applies for a mortgage he is turned down because of insufficient credit. Dan's Uncle Bob agrees to purchase the house in his name and loans Dan the down payment of \$10,000. Dan signs a promissory note agreeing to repay Uncle Bob. Dan makes all the mortgage payments on the property. After two years, Dan has sufficient credit to refinance the debt in his own name. Uncle Bob quitclaims title to Dan. This transfer meets the nominee exemption requirements because:

(i) Real estate excise tax was paid on the initial transaction;

(ii) The signed earnest money agreement shows Dan's initial intent to purchase the property in his name;

(iii) Dan has made all the payments on the debt; and

(iv) The signed promissory note is sufficient evidence Uncle Bob did not intend to have a financial interest in the property.

(6) The affidavit reflecting the claim for tax exemption must show the prior affidavit and number and date of the tax payment.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-214, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-215 Clearing or exiting title, and additions to title. (1) **Introduction.** The real estate excise tax does not apply to quitclaim deeds given for the sole purpose of clearing title if no consideration passes otherwise. This rule does not apply to deeds executed for the purpose of adding persons to title, except in cases of persons added to title for co-signing security purposes only.

(2) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a conveyance of real property may or may not qualify for exemption under this rule. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(a) An exiting minority partner gives the partnership a quitclaim deed for the purpose of removing any presumptive interest. This transfer is exempt from real estate excise tax under this rule.

(b) An heir to an estate gives the estate a quitclaim deed for the purpose of removing any presumptive interest they have in the estate. This transfer is exempt under this rule.

(c) A developer deeds greenbelts, streets or common areas in a development to the homeowners association upon completion of the development and under the terms and covenants of the development. This transfer is exempt under this rule.

(d) Joseph owns a residence and goes to a bank to refinance. His credit is not good enough to obtain the new loan in his name only, but he can qualify if he obtains a co-signor/co-borrower. Joseph's parents agree to co-sign the loan. The bank requests that the parents also go on title with Joseph, and he quitclaims a half interest to his parents. Although the deed may be phrased as a gift to his parents, the deed acts as a security interest for his parents in the event Joseph defaults. The addition of Joseph's parents to the title is exempt under this rule, provided Joseph makes all the mortgage payments, and Joseph receives no consideration from his parents for the transfer.

(e) The parents described in (d) of this subsection who have been on title with their child are now issuing a quitclaim deed to Joseph to exit title. Joseph has now paid off or refinanced the mortgage in his name only. The parents' intention was to go on title as "co-signors" only, not as co-purchasers of the property, and they have not made any payments toward the repayment of the loan. This transfer is exempt under this rule.

(3) **Documentation.** A narrative that explains the nature of the clearance of, or addition to title must be signed by both grantor and grantee, or agents of either, and attached to the real estate excise tax affidavit. The original narrative will be retained with the original affidavit at the county office and a copy of the narrative will be attached to the department's affidavit copy.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-215, filed 11/16/05, effective 12/17/05.]

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WAC 458-61A-216 Mortgage insurers. (1) **Introduction.** The transfer of real property from a mortgage lender to the Veterans Administration or Federal Housing Authority is an exempt transaction.

(2) The transfer of real property from a mortgage lender to another private insurer or guarantor in settlement of an insurance claim is a taxable transaction.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-216, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-217 Rerecord. (1) **Introduction.** The rerecording of documents to correct a legal description, change contract terms, or correct the spelling of the name of a party to the transaction, is not subject to the real estate excise tax.

(2) **Documentation required.** An affidavit is required for the rerecording. The affidavit must refer to the prior affidavit number and the recorded document number for the prior transaction, and must include a complete explanation of why the rerecording is necessary.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-217, filed 11/16/05, effective 12/17/05.]

COLLECTION AND ADMINISTRATION

WAC 458-61A-300 Collection and administration.

Introduction. Real estate excise tax is levied by the state under chapter 82.45 RCW and by counties under chapter 82.46 RCW. The general provisions for the administration of the state's excise taxes contained in chapter 82.32 RCW apply to the real estate excise tax, except as provided in RCW 82.45.150. This section describes the applicable procedures for payment, collection, disposition of proceeds, requests for refunds, penalties, record keeping requirements, requests for rulings, and other administrative processes.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-300, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-301 Payment of tax, collection responsibility, audit responsibility, and tax rulings.

(1) **Tax imposed.** The taxes imposed are due at the time the sale occurs and are collected by the county when the documents of sale are presented for recording or, in the case of a transfer of a controlling interest (see WAC 458-61A-101), by the department. The tax is imposed upon the seller.

(2) **Payment of tax. Scope of section.** This section applies to sales of real property that are evidenced by conveyance, deed, grant, assignment, quitclaim, or transfer of title to real property. See WAC 458-61A-101 for procedures pertaining to transfers or acquisitions of a controlling interest in an entity owning real property in Washington.

(3) **County as agent for state.** Real estate excise tax is paid to and collected by the agent of the county where the property is located (unless the transaction involves the transfer of a controlling interest, in which case the tax is paid to the department).

(4) **Computation of tax.** The tax is computed by multiplying the combined state and local tax rates in effect at the time of sale by the selling price. A current list of the current state and local real estate excise tax rates is available on the department's web site at dor.wa.gov. This information is also

available by contacting the county where the property is located.

(5) **Evidence of payment.** The county agent stamps the instrument of sale or conveyance prior to its recording as evidence that the tax has been paid or that an exemption from the tax was claimed. In the case of a used mobile home, the real estate excise tax affidavit is stamped as evidence of payment or a claimed exemption. The stamp references the affidavit number, date, and payment of or exemption from tax, and identifies the person stamping the instrument or affidavit.

(6) **Compliance with property tax statutes.** The county agent will not stamp the instrument of conveyance or affidavit if:

(a) A continuance of use has been applied for but not approved by the county assessor under chapter 84.33 or 84.34 RCW; or

(b) Compensating or additional tax is due but has not been paid as required by RCW 84.33.086, 84.33.140 (5)(c), 84.34.108 (1)(c), 84.36.812, or 84.26.080.

(7) **Prerequisites to recording.** The county auditor will not file or record the instrument of conveyance until all taxes due under this section have been paid or the transfer is determined to be exempt from tax as indicated by a stamped document.

(8) **Evidence of lien satisfaction.** A receipt issued by the county agent for payment of the tax may be used as evidence of satisfaction of a lien imposed under RCW 82.45.070.

(9) **Audit authority.** All transactions are subject to audit by the department. The department will audit transactions to confirm the proper amount of tax was paid and that any claim for exemption is valid. Failure to provide documentation to the department as requested may result in denial of any exemptions claimed and the assessment of additional tax.

(10) **Tax assessments.**

(a) If the department discovers an underpayment of tax due, it will notify the taxpayer and assess the additional tax due, together with all applicable interest and penalties. The assessment notice will identify the additional tax due and explain the reason for the assessment.

(b) Persons receiving an assessment must respond within thirty days from the date the assessment was mailed. Failure to respond may result in the assessment of additional penalties and interest and enforcement for collection of the deficient tax under the administrative provisions of chapters 82.32 and 82.45 RCW.

(11) **Tax rulings.** Any person may request a written opinion from the department regarding their real estate excise tax liability pertaining to a proposed transfer of real property or a proposed transfer or acquisition of the controlling interest in an entity with an interest in real property. The request should include sufficient facts about the transaction to enable the department to ascertain the proper tax liability. The department will advise the taxpayer in writing of its opinion. The opinion is binding upon both the taxpayer and the department under the facts presented in accordance with WAC 458-20-100(9), appeals, small claims and settlements. To obtain a written opinion, send your request to:

Department of Revenue
Taxpayer Information & Education
P.O. Box 47478
Olympia, WA 98504-7478

You may also use the "contact" information available online at dor.wa.gov.

(12) **Refunds.**

(a) **Introduction.** Under certain circumstances, taxpayers (or their authorized representatives) may request a refund of real estate excise tax paid. The request must be filed within four years of the date of sale, and must be accompanied by supporting documents.

(b) **Claims for refunds.** Any person having paid the real estate excise tax in error may apply for a refund of the amount overpaid by submitting a completed refund request form.

(c) **Forms and documentation.** Refund request forms are available from the department or the county. The completed form along with supporting documentation is submitted to the county office where the tax was originally paid. If the tax was originally paid directly to the department, the claim form and supporting documentation are submitted to:

Department of Revenue
Miscellaneous Tax Section
P.O. Box 47477
Olympia, WA 98504-7477

(d) **Circumstances under which refunds are authorized.** The authority to issue a refund under this chapter is limited to the following circumstances:

(i) Real estate excise tax was paid on the conveyance back to the seller in a transaction that is completely rescinded (as defined in WAC 458-61A-209);

(ii) Real estate excise tax was paid on the conveyance back to the seller on a sale rescinded by court order. The county treasurer must attach a copy of the court decision to the department's affidavit copy (see also WAC 458-61A-208, Deeds in lieu of foreclosure);

(iii) Real estate excise tax was paid on the initial conveyance recorded in error by an escrow agent before the closing date, provided that the property is conveyed back to the seller;

(iv) Real estate excise tax was paid on the conveyance back to the seller in accordance with (d)(iii) of this subsection;

(v) Real estate excise tax was paid on the initial conveyance recorded before a purchaser assumes an outstanding loan that represents the only consideration paid for the property, provided:

(A) The purchaser is unable to assume the loan; and

(B) The property is conveyed back to the seller. The refund is allowed because there is a failure of the consideration;

(vi) The conveyance back to the seller in (d)(v) of this subsection;

(vii) Double payment of the tax;

(viii) Overpayment of the tax through error of computation; or

(ix) Real estate excise tax paid when the taxpayer was entitled to claim a valid exemption from the tax but failed to do so at the time of transfer.

(e) **Responsibilities of county.**

(i) **Request for refund made prior to disposition of proceeds.** If the taxpayer submits a valid refund request to the county before the county treasurer has remitted the tax to the state treasurer, the county may void the receipted affidavit copies and issue the refund directly. The county will then submit a copy of the initial affidavit, together with a copy of the refund request, to the department. If, after reviewing the request for refund and supporting documentation, the county is unable to determine the validity of the request, the county will send the request, a copy of the affidavit, and all supporting documentation to the department for determination. If the county denies the request for refund, in whole or in part, the taxpayer may appeal in writing to the department's miscellaneous tax section within thirty days of the county's denial.

(ii) **Request for refund made after disposition of proceeds.** If the taxpayer submits the refund request after the county treasurer has remitted the tax to the state treasurer, the county will verify the information in the request and forward it to the department with a copy of the affidavit and any other supporting documents provided by the taxpayer. The county or the department may request additional documentation to determine whether the taxpayer qualifies for a refund.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-301, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-302 Disposition of proceeds and affidavit batch transmittal. (1) **Introduction.** This rule explains how the counties, the department of revenue, and the state treasurer process the taxes and administrative fees received under this chapter.

(2) **County treasurer.** The county treasurer distributes the proceeds of the real estate excise tax in accordance with the provisions of chapters 82.45 and 82.46 RCW. When no real estate excise tax is due on a transaction, the county will collect an administrative fee for processing the real estate excise tax affidavit. RCW 82.45.180.

(3) **Adjustments.** Requests from county treasurers for adjustments to the funds that have been distributed to the state treasurer must be sent to the department for approval or denial. The department will forward to the state treasurer those requests that it approves. If the department denies a request for adjustment, the department will return the request to the county treasurer with an explanation for the denial.

(4) **Tax paid directly to the department.** Real estate excise tax for transfers of a controlling interest in an entity owning real property in Washington, and any other tax payment under this chapter made directly to the department, are remitted to the state treasurer. The state treasurer deposits the proceeds of the state portion of the tax in the general fund for the support of the common schools. The state treasurer deposits and distributes the proceeds of any local taxes in accordance with the provisions of chapters 82.45 and 82.46 RCW.

(5) **Affidavit batch transmittal.**

(a) **Due date.** The county will submit copies of all the real estate excise tax affidavits for the entire month, together with a completed affidavit batch transmittal form, to the department by the fifth business day following the close of the month in which the tax was received. The affidavit batch must include all affidavits processed during the month, plus

copies of any documents related to refunds made by the county.

(b) **Alternate transmittal method.** An alternate method for submitting affidavits may be used in lieu of the paper method described in this rule with the prior approval of the department. Use of an alternate method (e.g., electronic transmittal) requires a signed memorandum of understanding (MOU) between the county and the department.

(c) **Distribution.** The county will complete the affidavit transmittal form, supplied by the department, and send one copy with the affidavit batch to the department. The county will send a second copy of the affidavit batch transmittal with the monthly cash receipts journal summary to the state treasurer's office as documentation for the remittance of the real estate excise tax deposit.

(d) **Reporting of refunds.** The county must report any refunds made during the month on the adjustment section provided on the batch transmittal form and attach all refund documentation.

(e) **Retention of records.** The county treasurer will retain the approved real estate excise tax affidavits, including any supplemental statements, for a period of not less than four years following the year in which the affidavit is received. See RCW 82.45.150 and 82.32.340.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-302, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-303 Affidavit. (1) **Introduction.** This section explains when a real estate excise tax affidavit is required for the conveyance of an interest in property. See WAC 458-61A-101 for procedures pertaining to transfers and acquisitions of a controlling interest in an entity owning real property in the state of Washington.

(2) **Affidavit required.** In general, an affidavit must be filed when ownership or title to real property transfers as evidenced by conveyance, deed, grant, assignment, quitclaim, including, but not limited to, the following:

(a) Conveyance establishing or separating community property, or in fulfillment of a settlement agreement incident to a dissolution of marriage, legal separation, or declaration of invalidity;

(b) Conveyance resulting from a court order;

(c) Conveyance to secure a debt;

(d) Conveyance of a taxable easement;

(e) A deed in lieu of foreclosure of a mortgage;

(f) A deed in lieu or declaration of forfeiture of a real estate contract;

(g) Conveyance to an heir in the settlement of an estate;

(h) Conveyance to or from the United States, the state of Washington, or any political subdivision or municipal corporation of this state;

(i) Conveyance of development rights, water rights, or air rights;

(j) Conveyance of leasehold improvements;

(k) Boundary line adjustments; or

(l) The affidavit must be filed when rerecording a document to correct a minor error, such as the legal description or spelling of a name.

(3) **Affidavit not required.** The real estate excise tax affidavit is not required nor accepted for the following transactions:

- (a) Conveyance of cemetery lots or graves;
- (b) Conveyance for assignment or release of security, stated on the face of the instrument:
 - (i) To secure or assign a debt; or
 - (ii) To provide or release collateral;
- (c) A lease of real property that does not transfer lessee-owned improvements;
- (d) A mortgage or deed of trust, satisfaction of mortgage, or reconveyance of a deed of trust;
- (e) A seller's assignment of deed and contract;
- (f) A fulfillment deed pursuant to a real estate contract;
- (g) A community property agreement under RCW 26.16.120;
- (h) Purchase of an option; or
- (i) An earnest money agreement.

(4) Examples.

(a) Lionel Construction has developed a group of new homes. It deeds a street to the homeowners' association upon completion of the development. This is done to clear title, which is an exempt transaction. The affidavit should cite the appropriate exemption rule, describe the exemption as "clearing title for street for homeowners' association," and have attached all department-required documentation.

(b) Webb Corporation transfers its interest in a parcel of real property to its wholly owned subsidiary, Watson Company. This is an exempt transaction because there is no change in beneficial ownership of the property. The affidavit must cite the appropriate exemption rule, describe the exemption as "transfer to wholly owned subsidiary; no change in beneficial ownership," and have attached all documentation required by the department.

(5) **Multiple buyers.** When the transfer of property is to two or more buyers, the affidavit must clearly state the relationship between them as joint tenants, tenants in common, partners, etc., and identify the form and proportion of interest each is acquiring.

(6) Affidavit must be complete.

(a) Taxpayers must provide complete and accurate information on the affidavit, as well as all documentation required by the department for claimed tax exemptions. Incomplete affidavits will not be accepted.

(b) An affidavit is incomplete if any required information is omitted or obviously incorrect, such as the use of a nominal selling price. A nominal selling price is an amount stated on the affidavit that is so low in comparison with the fair market value assessment stated on the property tax rolls that it would cause disbelief by a reasonable person. In the case of a nominal selling price, the county assessed value will be used as the selling price, unless there is an independent appraisal showing a greater value.

(7) **Documentation required when claiming an exemption.** Claims of exemption from the real estate excise tax must be specific and include the following:

- (a) Current assessed values of parcels involved as of the date of sale; and
- (b) Complete reasons for the exemption, including reference to the specific tax exemption in this chapter, citing the specific WAC section and subsection providing the exemption, as well as a brief description of the exemption.

(8) **Completion of affidavit.** The department will provide a real estate excise tax affidavit to be completed by the

taxpayer and filed with the agent of the county where the property is located. Affidavits will be furnished by the department to the county agents and accessible to the public in one or more formats to be determined by the department. Alternative forms may be used, as long as they are in a format accepted by the department.

In most instances, the affidavit must be signed by the seller or the seller's agent and the buyer or the buyer's agent, under oath, certifying that all information on the affidavit is complete and correct. However, an affidavit given in connection with the grant of an easement or right of way to a utility company, public utility district or cooperative, or a governmental entity needs to be signed only on behalf of the entity purchasing the utility right of way or easement.

(9) **Duplicate affidavits.** To accommodate the requirement that the affidavit be signed by both the seller and buyer, or agents of each, identical affidavits may be submitted for a single transaction, one bearing the seller's or seller's agent's signature and one bearing the buyer's or buyer's agent's signature. Both affidavits must be complete and have identical information. The county agent will receipt one of the affidavits and attach the other affidavit to the receipted affidavit.

(10) **Retention of records.** The taxpayer must retain all records pertaining to the transaction for a period of at least four years from the date of the conveyance.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-303, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-304 Supplemental statements. (1) The department will provide the county with a uniform multiuse supplemental statement form for use in meeting the requirements of the following sections of this chapter:

(a) WAC 458-61A-306, Interest and penalties—Date of sale;

(b) WAC 458-61A-201, Gifts; and

(c) WAC 458-61A-213, IRS "tax deferred" exchange.

(2) The supplemental statements must be completed and distributed as required by the instructions contained on the form.

(3) Supplemental statements may be unsworn certified statements that meet the requirements set forth in RCW 9A.72.085.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-304, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-305 Trade-in credit. (1) **Introduction.** When a single-family residential property is transferred as either partial or entire consideration for the purchase of another single-family residential property, a credit for the amount of the real estate excise tax paid at the time of the first transfer is allowed toward the amount of the real estate excise tax due upon the later transfer of the same property.

(2) **Refund not available.** The later transfer must be made within nine months of the original transfer for the credit to be allowed. If the tax that would be due on the later transfer is greater than the tax paid for the first transfer, the difference must be paid. However, if the tax paid on the first transfer is greater than that due on the second transfer, no refund of tax paid will be allowed.

(3) The trade-in credit is allowed toward the later sale of the residence "brought in" on trade, not toward the tax liability

ity of the sale of the residence for which it was traded. The affidavit upon which the trade-in credit is claimed must show all of the following:

- (a) The transaction date and prior affidavit number where the tax was paid on the original (trade-in) transaction;
- (b) The county auditor's recorded document number for the original transaction, if such was recorded; and
- (c) The disclosure that both properties involved in the original trade-in transaction are single-family dwellings.

For example, Bob is selling real property in Sun City. Alex wants to buy Bob's property, but he needs to sell his property in Smokey Hollow. Both the Sun City property and the Smokey Hollow property are single-family residential properties. Bob agrees to buy Alex's Smokey Hollow property for \$175,500 and Alex agrees to buy Bob's Sun City property for \$210,000. Real estate excise tax is paid on the full sales price of both properties. Three months later, Bob sells the Smokey Hollow property to Sally for \$180,000. Bob receives a credit on the sale to Sally for the tax paid on the previous sale of the Smokey Hollow property.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-305, filed 11/16/05, effective 12/17/05.]

WAC 458-61A-306 Date of sale, interest, and penalties. (1) Introduction. This rule explains how to determine the date of sale and explains the application of interest and penalties when the tax is not paid within one month of the date of sale. See WAC 458-61A-101 for procedures pertaining to transfers and acquisitions of a controlling interest in an entity owning real property in the state of Washington.

(2) Date of sale. Real estate excise tax is due and payable to the county on the date of sale, regardless of the date on which the contract of sale or instrument of conveyance is recorded.

(a) Conditions to be fulfilled prior to completing sale. When a contract of sale or instrument of conveyance is signed and delivered by the seller to an escrow agent licensed under chapter 18.44 RCW (Escrow Agent Registration Act), a title company, a title insurance company, or an attorney acting as an escrow agent, with instructions to deliver the instrument to the buyer upon the fulfillment of one or more conditions that had prevented the sale from being completed, the date of sale will be presumed to be the date that the instrument is presented for recording, subject to the following:

(i) A statement, signed by the seller's agent, is attached to the affidavit indicating the specific conditions that had to be met in order for the sale to be completed;

(ii) The date shown on the instrument cannot be more than ninety days prior to the date the affidavit is presented to the county treasurer for filing; and

(iii) All documentation required by the department must be provided to the county agent when submitting the affidavit claiming an exemption from interest and penalty pursuant to this rule.

(b) Sale of mining property. A conditional sale of mining property in which the buyer has the right to terminate the contract at any time, and a lease and option to buy mining property in which the lessee-buyer has the right to terminate the lease and option at any time, is taxable at the time of execution only on the consideration received by the seller or lessor for execution of such contract. The tax due on any addi-

tional consideration received by the seller is paid to the county at:

- (i) The time of termination;
- (ii) The time that all of the consideration due to the seller has been paid and the transaction is completed except for delivery of the deed to the buyer; or
- (iii) The time when the buyer exercises an option to purchase the property.

For further information regarding mineral rights and mining claims, see WAC 458-61A-112.

(c) In all other cases, the date of sale will be presumed to be the date shown on the instrument. A taxpayer alleging a date of sale other than the instrument date has the burden of proving that delivery of title or ownership of the property in exchange for consideration occurred on the date alleged.

(3) Interest. Payment of the real estate excise tax is due on the date of sale. If the tax is not paid within one month of the date of sale, interest will be imposed on the total amount of the unpaid tax (both the state and local components) from the date of sale to the date of full payment. RCW 82.45.100 (1) and 82.46.010(5). Interest is calculated on a monthly basis with a full month's interest accruing at the beginning of each month. A list of annual interest rates is available on the department's web site at dor.wa.gov.

(a) Interest is computed in accordance with the provisions of RCW 82.32.050(2). The interest rate is adjusted annually on January 1. The rate applied to any given month or portion of a month is the annual variable interest rate in effect at the beginning of that month, divided by twelve. Any interest imposed for a month or portion of a month that starts in December will be imposed at the interest rate effective in December, even though the interest rate may change on January 1. For example:

(i) Tyler sold real property located in Mayberry to Dustin on April 20, 2004. Tyler does not file a Real Estate Excise Tax Affidavit until August 15, 2004, at which time he pays \$1,530 in tax. The interest rate for 2004 is 4%, and interest is due on the transfer from April 20, 2004, through August 15, 2004, the date the tax was paid. Interest would be due as follows:

April 20 to May 20, 2004	\$1,530 tax at 0.33% per month	\$5.05
May 21 to June 20, 2004	\$1,530 tax at 0.33% per month	\$5.05
June 21 to July 20, 2004	\$1,530 tax at 0.33% per month	\$5.05
July 21 to August 15, 2004	\$1,530 tax at 0.33% per month	\$5.05
Total interest due with August 15, 2004 payment		\$20.20

In this example, note that a full month's interest applies from July 21 to August 15, 2004, even though it is less than a full month.

(ii) Tara sells her house in Sun City to Chris on March 5, 2004. Real estate excise tax of \$1,780 is due on April 5, 2004, but is not paid until June 16, 2004. Interest applies from March 5, 2004, through June 16, 2004, the date of full payment. Again, a full month's interest applies from June 5 to June 16, 2004, even though it is less than a full month.

March 5 to April 4, 2004	\$1,780 tax at 0.33% per month	\$5.87
April 5 to May 4, 2004	\$1,780 tax at 0.33% per month	\$5.87
May 5 to June 4, 2004	\$1,780 tax at 0.33% per month	\$5.87
June 5 to June 16, 2004	\$1,780 tax at 0.33% per month	\$5.87
Total additional interest due with June 16, 2004 payment		\$23.48

(b) When interest must be calculated in a shorter month that does not have a day corresponding to the original date of sale, interest is computed on the first day of the following calendar month.

For example, Kevin sells land located in unincorporated Sparkle County to Jim and Anita on January 30, 2004. Tax of \$3,560 is due on February 28, 2004. Since February has only twenty-eight days (assuming it is not a leap year) and February 28 most closely corresponds to the January 30 date of sale. The tax is not paid until May 10, 2004. The interest is computed as follows:

January 30 to February 28, 2004	\$3,560 tax at 0.33% per month	\$11.75
March 1 to March 30, 2004	\$3,560 tax at 0.33% per month	\$11.75
March 31 to April 30, 2004	\$3,560 tax at 0.33% per month	\$11.75
May 1 to May 10, 2004	\$3,560 tax at 0.33% per month	\$11.75
Total interest due with May 10, 2004 payment		\$47.00

(4) **Delinquent penalty.** If payment of real estate excise tax is not received by the county within one month of the date of sale, a delinquent penalty is imposed on the total amount of the unpaid tax. RCW 82.45.100(2) and 82.46.010(5).

(a) If tax is not paid:

(i) Within one month of the date of sale, a penalty of five percent of the amount of the tax will be added to the tax due;

(ii) Within two months of the date of sale, a penalty of ten percent shall be added to the tax due; and

(iii) Within three months of the date of sale, a penalty of twenty percent will be added to the tax due.

(b) Penalties are assessed against the seller only and will not be included in a lien arising under RCW 82.45.070.

(5) **State assessment penalty.** Any tax determined to be due and assessed by the department will include an assessment penalty of five percent of the tax assessed by the department. RCW 82.32.090(2).

(a) If payment of the tax assessment is not received by the department by the due date specified in the notice, or any extension thereof, a penalty of fifteen percent of the amount of the tax under this subsection will be assessed; and

(b) If payment of the tax assessment is not received on or before the thirtieth day following the due date specified in the notice of tax due, or any extension thereof, a penalty of twenty-five percent of the amount of the tax under this subsection will be assessed; and

(c) This penalty will be no less than five dollars.

(6) **Evasion penalty.**

(a) The department may add a penalty equal to fifty percent of the underpaid excise tax due on transfers where an intent to evade the payment of the excise tax is demonstrated.

(b) An "intent to evade" includes, but is not limited to, knowingly stating a false sales price or knowingly claiming a tax exemption for which the transfer does not qualify.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. 05-23-093, § 458-61A-306, filed 11/16/05, effective 12/17/05.]

Chapter 458-276 WAC

ACCESS TO PUBLIC RECORDS

WAC

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WAC 458-276-010 Declaration of purpose. This chapter is promulgated by the department of revenue in compliance with RCW 42.17.250 and to set out procedures by which public records of the department will be made available to the public for inspection and copying.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-010, filed 1/23/78.]

WAC 458-276-020 Definitions. (1) Public records. "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

(2) Writing. "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(3) Department of revenue. The department of revenue is an agency headed by a director appointed by the governor subject to conformation by the state senate. The powers and duties of the director are, inter alia, those prescribed by RCW 82.01.060. The department of revenue will hereinafter be referred to as the "department," and the director will hereinafter be referred to as the "director." Where appropriate, the term department also refers to the staff and employees of the department of revenue.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-020, filed 1/23/78.]

WAC 458-276-030 Description of central and field organization of the department. The department of revenue administers state tax laws, acts as advisor on revenue matters to the governor, the legislature, and other state and local agencies, and supervises and assists in the administration of property tax laws at state and local levels. The central administrative offices of the department and its staff are located at General Administration Building, Fourth Floor, Olympia, Washington 98504. Operating divisions of the department are: Field Operations, Interpretation and Appeals, Research and Information, Office Operations, Inheritance Tax, Property Tax, Administrative Services, and Forest Tax.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-030, filed 1/23/78.]

WAC 458-276-040 Operations and procedures. Each of the major operating divisions of the department is the immediate responsibility of an assistant director of the department who is designated as director of that division.

(1) Field operations. The director of field operations directs employees engaged in field audits, enforcement, audit review and taxpayer assistance through 16 branch offices, 4 regional offices, and several out-of-state auditors.

(2) Interpretation and appeals. The director of interpretation and appeals and his hearing officers conduct tax hearings, publish excise tax bulletins and guidelines, issue formal and informal interpretations, and provide advice to the legislature on excise tax matters. The division administers rules published under the Washington Administrative Code, and makes written determinations on appeals involving disputed tax liability.

(3) Research and information. The director of research directs the preparation of revenue forecasts for state government and develops other statistical analyses used in the preparation of the governor's budget. The division is responsible for the analysis of proposed legislation, and advises both the executive and legislative branches of the fiscal impact of proposed tax measures.

The director of research also is in charge of informational services and the publication of official state and local statistical documents. His staff also provides supportive data, analyses, and advice to the other divisions.

(4) Office operations. The director of office operations supervises employees assigned to taxpayer registration, accounts receivable, taxpayer office audits and investigation, miscellaneous tax processing, and records maintenance.

(5) Inheritance tax. The director of inheritance tax administers the collection of gift and inheritance taxes and supervises escheats and unclaimed property.

(6) Property tax. The director of property taxes oversees the administration of property taxation at the state and local level, including the development of guidelines and regulations affecting the operation of assessors in the 39 counties. The division directly appraises the intercounty operating properties of railroad, power, gas, transportation, communications, and water companies.

Activities include assessment ratio studies used, in part, as a basis for allocating state funds to local taxing districts; tax mapping, coding, and appraisal assistance to the counties; appraisal manuals and tax reporting forms; motor vehicle excise tax valuations; statewide supervision of property tax

exemptions and determination of eligibility for property tax exemptions for nonprofit organizations; rules for open space taxation; and supervision of county boards of equalization.

(7) Administrative services. The director of administrative services directs employees engaged in budget and fiscal controls, centralized word processing, office services, systems and procedures, and automated data processing.

(8) Forest tax. The director of forest tax is responsible for developing semi-annual timber stumpage value rates used in determining the tax liability for all timber harvested from private lands, and for the timely collection of the forest excise tax, and computation of the distribution of revenues to the state and local taxing districts. The division also develops forest land values annually to be used by the county assessors for the assessment of all classified and designated forest lands for property tax purposes. Field inspections of harvest sites, timber sales, and forest land sales are also performed by the division for audit, compliance, and valuation purposes.

(9) Director of personnel. The personnel officer coordinates departmental employment, personnel relations and labor relations, and also is in charge of personnel administration, employee development, employee benefits, services and safety, and affirmative action.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-040, filed 1/23/78.]

WAC 458-276-050 Public records available. All public records of the department, as defined in WAC 458-276-020(1) are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310, 42.17.330, WAC 458-276-100, and other applicable laws.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-050, filed 1/23/78.]

WAC 458-276-060 Public records officer. The department's public records are in the charge of the public records officer designated by the director. The person so designated will be located in the central administrative office, research and information division, of the department. The public records officer is responsible for the following: The implementation of the department's rules and regulations regarding release of public records, coordinating the staff of the department in this regard, and generally ensuring compliance by the department with the public records disclosure requirements of chapter 42.17 RCW.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-060, filed 1/23/78.]

WAC 458-276-070 Hours for records inspection and copying. Public records maintained in the central administrative offices will be available for inspection and copying at the administrative office during the customary office hours of the department. For the purposes of this chapter, the customary office hours are 8:00 a.m. to noon and 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding legal holidays. Specific records not available in the central administrative offices will be made available pursuant to the procedures described in WAC 458-276-080(3).

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-070, filed 1/23/78.]

WAC 458-276-080 Requests for public records. (1) Chapter 42.17 RCW requires that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency. Accordingly, whenever the department believes these or other provisions of law would be violated by immediate disclosure of records, requests for inspection or copying by members of the public shall be in writing upon a form prescribed by the department which will be available at its administrative and all branch offices. The form shall be presented either to the public records officer at the central administrative offices of the department or to any tax service representative of the department at the administrative or any branch office of the department during customary office hours. Customary office hours at branch offices may vary from those of the department's administrative offices. If a tax service representative is not available at a branch office the request form may be completed and presented to the person in charge of the office at the time the request is made or mailed to the Public Records Officer, Research and Information Division, Department of Revenue, 414 General Administration Building, Olympia, Washington 98504. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request is made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to the department's current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it is the obligation of the public records officer, or staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested.

(3) If the record is not maintained in the central administrative offices of the department, after approval of the request, the public records officer will retrieve the record and advise the person making the request by telephone or mail of the time and place the record will be available, which time will be as reasonably soon after the request is made as possible.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-080, filed 1/23/78.]

WAC 458-276-090 Copying. There is no fee for the inspection of public records. The department will charge a fee of twenty-five cents per page of copy for providing copies of public records and for use of the department's copy equipment. This charge is to reimburse the department for its costs incident to such copying.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-090, filed 1/23/78.]

WAC 458-276-100 Exemptions. (1) The department reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 458-276-

080 is exempt under the provisions of RCW 42.17.310, and other applicable laws.

(2) In addition, pursuant to RCW 42.17.260, the department reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of privacy protected by chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.

(3) All denials of written requests for public records will be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

(4) The department reserves the right provided by RCW 42.17.330 to move the various superior courts to enjoin the examination of any specific public record when it believes such examination would substantially and irreparably damage any person, or would substantially and irreparably damage vital governmental functions.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-100, filed 1/23/78.]

WAC 458-276-110 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request will refer it to the director. The petition will be reviewed promptly and the action of the public records officer approved or disapproved. Such approval or disapproval shall constitute final department action for purposes of judicial review under RCW 42.17.340.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-110, filed 1/23/78.]

WAC 458-276-120 Limitations on disclosure. The department will give due regard in considering requests for public records to RCW 82.32.330, 83.36.020, and other applicable limitations on disclosure.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-120, filed 1/23/78.]

WAC 458-276-130 Records index. The department will maintain and make available for public inspection and copying an appropriate index or indices in accordance with RCW 42.17.260.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-130, filed 1/23/78.]

WAC 458-276-140 Administrative offices. All communications with the department regarding administration or enforcement of chapter 42.17 RCW and these rules, and requests for copies of the department's decisions and other matters, shall be addressed as follows: Public Records

Officer, Research and Information Division, Department of Revenue, 414 General Administration Building, Olympia, Washington 98504.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-140, filed 1/23/78.]

WAC 458-276-150 Adoption of form. The department hereby adopts for use by all persons making written request for inspection and/or copying or copies of its records under WAC 458-276-080, the Form S.F. 276 as it exists or may hereafter be revised.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-150, filed 1/23/78.]